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# ENATE OF THE UNITED STATES

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36

FOR THE

## SECOND SESSION OF THE FORTY-EIGHTH CONGRESS

AND

## SPECIAL SESSION, MARCH, 1885.

## 1884-'85.

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IN TWO VOLUMES.

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*Second Session of the Forty-eighth Congress and Special Session, March,* 1885.

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O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 901.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 2, 1884.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill S. 1592.]

*The Committee on Claims, to whom was referred the bill* (*S.* 1592) *for the relief of Franklin S. Whitney, have carefully considered the same, and, in accordance with the resolution of the Senate of February* 7, 1884, *report as follows:*

That they have referred the same to the Court of Claims under the provisions of an act entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government," approved March 3, 1883.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 902.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 2, 1884.—Ordered to be printed.

Mr. COKE, from the Committee on Commerce, submitted the following

# REPORT:

[To accompany bill S. 1652, reported June 30, 1884.]

*A majority of the Committee on Commerce, to whom was referred Senate bill No. 1652, entitled "A bill to provide for the improvement of the channel between Galveston Harbor and the Gulf of Mexico," submit the following report:*

The interests demanding deep water at Galveston are so vast and the territory that will be affected by it is so extended, that no further delay in securing it should be permitted. This great improvement will affect not only the city of Galveston and the State of Texas, but will be of immeasurable value to that immense region of country whose productions would naturally seek an outlet there. In this connection particular attention is directed to an official report made by Mr. Joseph Nimmo, jr., Chief of the Bureau of Statistics, under date of June 18, 1884. This report has especial reference to the question of the improvement of Galveston Harbor, and contains statistics of much value. It will be found in the Appendix hereto, marked A. This report is so comprehensive and satisfactory in its character, that the committee attaches it to and makes it a part of this report without adding thereto. The United States Government has not been insensible to the importance of improving Galveston Harbor, for during the past fourteen years Congress has from time to time appropriated large sums of money for that purpose. The general plan of improvement which has been carried on during the past ten years was commenced by Major Howell, and was approved by a Board of Engineers, composed of Generals Tower, Wright, and Newton. It has since been reported upon by Boards of United States Engineers in 1875, 1876, and 1880. The method of construction was called the "Gabionade" system. This was abandoned in 1879, after an expenditure by Major Howell of $527,000. After the failure of the "Gabionade" system the present officer, Colonel Mansfield, was placed in charge, and the method of construction was changed to the mattress system, without, however, altering the general plan and location of the works. Under Colonel Mansfield the south jetty, about 4¼ miles long, has been constructed at a cost of $975,000, including $100,000 contributed by the city of Galveston. The total amount of money expended up to the present time is $1,578,000; of which $76,000 was expended prior to 1874 in dredging plant, &c. The present depth of water according to the survey of Assistant Engineer Ripley, made July 21, 1883, is 13 feet. In the annual report of the Chief of Engineers for 1874 the depth of water

was stated to be 12 feet. In the Annual Report of the Chief of Engineers for 1876 the following statement of Assistant Engineer Ripley is given, viz: "A new channel across the outer bar was made (by the September storm); a mean depth of nine-tenths of a foot was attained. A channel of sufficient width for navigation, having a depth of 12½ feet at mean low tide, was thus formed, which has been maintained up to this time and shows every indication of permanence." From these facts it appears evident that no substantial benefit to the entrance of Galveston Harbor has thus far resulted from the expenditure of this large amount of money.

The plan for the improvement of the harbor adopted in 1874 contemplated the securing of a channel only 18 feet deep, and the record shows that that plan has never been abandoned. Inasmuch as the work was not designed to create a channel of more than 18 feet, it is not to be expected that, even if the work were successfully completed, any greater depth could be obtained. This depth would be entirely inadequate to the demands of commerce, and consequently would be but of little value.

The record also shows that the general plan prosecuted during the last ten years at Galveston is simply an experiment. The method used in the construction of the work known as the "Gabionade" system, although strongly recommended by Major Howell, was recognized by the Board as being purely experimental in its character. In 1874 the Board in its official report (see Report of Chief of Engineers, vol. 2, part 1, page 739) said:

> As regards the works within the bay, designed by Captain Howell for the purpose mainly of increasing the width of the harbor at Galveston and improving the bar at its mouth, the Board is of the opinion that nothing should be done until the question of the practicability of permanently improving the outer bar shall have been demonstrated, and it therefore expresses no opinion thereon.

Again, in a very recent official criticism of the bill herewith reported, the Chief of Engineers declares that further work is necessary, the effects of which must be observed in order to "lead to the possession of facts and data calculated to throw a needed light upon the amount necessary to be expended for obtaining a proper depth on the bar."

The purpose of the bill reported herewith is to place the work at Galveston Harbor in the hands of Mr. James B. Eads, the engineer who deepened the mouth of the Mississippi River. The present bill is very similar to that under which Mr. Eads constructed the jetties, the great feature of the bill being that all payments by the Government are made dependent upon the results to be accomplished. The work must be begun and carried on by Mr. Eads and his associates with their own money, and the Government is only required to pay proportionate amounts of the compensation as various depths are secured. If the prescribed depths are not secured no money is paid, and the Government loses nothing; or if, through the violence of wind and wave, or from any other cause, the works should be injured or destroyed, the loss will fall upon Mr. Eads and his associates. By the terms of the bill Mr. Eads is required to secure a maximum channel of not less than thirty feet in depth for a total compensation of $7,750,000. In view of the work to be done and the results to be accomplished, the committee is satisfied that this is a reasonable compensation. The cost of the jetties at the mouth of the Mississippi River was fixed in 1874 by a Commission of Engineers at $5,342,110, and Mr. Eads afterward agreed to do the work for $5,250,000. The Commission referred to was composed of Generals Wright, Alexander, and Comstock, of the United States Engineer

Corps, Prof. Henry Mitchell, of the United States Coast Survey, and T. E. Sickels, W. Minor Roberts, and H. D. Whitcomb, distinguished civil engineers. It may be safely assumed that the estimate of this Commission, made after an inspection of similar works in Europe and after a careful examination and study of the whole matter, was a fair one, and if this be true, it follows that the maximum compensation provided for in the present bill is reasonable, because:

1st. The jetties at Galveston must be considerably more than double the length of those at the mouth of the Mississippi to reach out to the same depth of water.

*2d.* They must be of a heavier and more substantial character, because the water is deeper, and as they extend so much further out into the *Gulf*, they will be much more exposed to storm action.

*3d.* The work being so exposed there will be greater danger of injury to the boats and apparatus used in its construction; and

4th. In addition to the jetties over the outer bar, works of an extensive and costly character will be required to deepen the inner bar.

The sum of $7,750,000 covers all work necessary to create a permanent navigable channel of 30 feet between the 30-foot contour line within the harbor and the 30-foot contour line in the Gulf of Mexico, and that sum is the limit of the obligation of the Government for securing such a channel.

Referring to the actual cost of the work at the mouth of the Mississippi River, it appears from the "History of the Jetties," a work published some years ago by Mr. E. L. Corthell, the resident engineer in charge of the work, that the aggregate length of the two jetties was 20,142feet, or 3.81 miles, the length of the east jetty being 12,100 feet (see page 75) and the west jetty being 4,058 feet shorter (see page 86). The amount of mattress work and stone in the jetties, and the works at the head of the pass, was 702,973 cubic yards (see Appendix 16). This included, however, 7,326 cubic yards of concrete capping (Appendix 16) which being deducted leaves a balance of 695,647 cubic yards of brush mattress and stone. Of this 301,515 cubic yards was used in the works at the head of the pass, leaving a balance used in the jetties of 394,132 cubic yards (Appendix 16). Colonel Mansfield states that the average cost per cubic yard of the mattress work on his jetty at Galveston, including stone, was $2.88½. (See Report of Chief of Engineers, 1883, vol. 2, part 2, p. 1066.) At this price the 394,132 cubic yards in the Mississippi jetties would amount to $1,137,070.82. Estimating the cost of the concrete capping at $10 per cubic yard it would amount to $73,260, and this, added to the cost of the brush and stone work, makes the total cost $1,210,330.82.

There are a number of other items of expenditure and cost which might have been added to the above account, but which have not been included. Among these may be mentioned 13,000,000 feet of lumber (see Corthell's History, p. 209), at $25 per M, $325,000; a considerable amount of dredging which was done to expedite the channel deepening (see pages 136, 167–213, 214), the cost of which, together with the expense of operating the dredge-boat, may be safely placed at not less than $100,000; the personal supervision which Mr. Eads gave to the work during the five years when it was in progress of construction, and the services of five or six assistant engineers, telegraph operators, &c., the cost of all which may be fairly estimated at $125,000; one mile of sheet piling, $26,400, and guide piles and piling, $50,000. In addition to these items mention may be made of the cost of the very powerful dredge-boat which Mr. Eads constructed for use at

the works, and for which he paid $150,000. (Corthell's History, p. 164.) Another item is that of interest. As the money was only paid to Mr. Eads by the Government as he secured the various depths required he was compelled to raise large sums of money to prosecute the work, the interest on which would probably not amount to less, at ordinary rates, than $120,000. All these items, not included in the cost of the work, when added together amount to the sum of $896,400.

It will be observed that in the above estimate of the cost of the jetties at the mouth of the Mississippi River the price of the stone and mattress work is assumed to be the same as that paid by Colonel Mansfield at Galveston, viz, $2.88½. This is done in order to arrive at the probable ultimate extent and cost of the Galveston jetties on the very lowest basis. The fact, however, is that Mr. Eads paid to his contractors very much more for the brush and stone than the amount herein estimated, and the total actual cost of the works was largely beyond any estimate herein included.

It being assumed, therefore, that the cost of 3.81 miles of jetties at the mouth of the Mississippi was $1,210,330.82 this would make the cost of one mile $317,672, and at this rate the 8.33 miles at Galveston would cost $2,646,207.

Professor Hilgard, Superintendent of the Geodetic and Coast Survey, at the request of the committee, has furnished four profiles by which a comparison can be accurately made of the depth of water in which the Mississippi jetties were located, and the depth of water in which it will be necessary to construct those at Galveston. The profile of the east jetty of the Mississippi extends out to the depth of 30 feet, that being the depth of water in which the end of that jetty was located. The west jetty appears to have been located in 18 feet of water, the 30-foot depth being only a few hundred feet in advance of it. On the Galveston bar one profile has been located along the line of the jetty constructed by Colonel Mansfield, and this profile extends out to 30 feet of water, corresponding to the depth at the end of the east jetty of the Mississippi. The other profile is located 12,000 feet distant and parallel to it, being on the line indicated on Colonel Mansfield's map accompanying his report of 1880 for the line of his north jetty. This profile has only been extended to 18 feet depth, as that is the depth in which the end of the west jetty of the Mississippi is located. These profiles show that the aggregate length of the Mississippi jetties is 20,142 feet, and the average depth of the water in which they are located is 8.2 feet. As the total amount of brush and stone used in the Mississippi jetties is 394,132 cubic yards, it will be seen that if this amount be divided by their total length the average cross-section of the two jetties will be 428 square feet. The average width of these jetties at mean high tide is 20 feet, the depth being 8.2 feet, the form of the cross-section is readily ascertained.

The profiles of the Galveston bar show that the average depth of water to mean high tide for the two jetties will be 13¾ feet. Applying the form of the average cross-section of the Mississippi jetties to this depth with 20 feet width at the top shows that the required average cross-section at Galveston for jetties of equal strength will require 1,018 square feet of section or 138 per cent. more material than the Mississippi jetties. The profiles also show that the jetties at Galveston must have an aggregate length of not less than 8.33 miles.

It has be n shown above that 8.33 miles of jetties at Galveston, if of no larger average cross-section than those at the mouth of the Mississippi, would cost $2,646,207. To this must be added 138 per cent. for

the increased depth at Galveston and this would amount to $3,651,765, making an aggregate of $6,297,772. The cost of the works to deepen the inner bar at Galveston are not included in the above amount. These will probably cost as much as the works at the head of the South Pass of the Mississippi River. In the works at the head of the South Pass there were 301,515 cubic yards of brush and stone, which at the price of $2.88½ per cubic yard, would amount to $869,868. This sum may therefore be added to offset the cost of the works on the inner bar at Galveston, and this would make the aggregate cost of the works $7,167,840.

There can be no doubt of the fact that the works at Galveston, during their construction, will be exposed to danger of injury from the violence of storms. The works at the mouth of the Mississippi River were, owing to their location, not subject to this danger to the same extent. When once these works at Galveston are completed and solidified they will be strong enough, Mr. Eads guarantees, to resist the most severe storm without serious injury. The time when the risk of injury is greatest is during the progress of construction. At such a time these works, built out for miles into the Gulf, and with no protection against storms, must be injured to a greater or less degree. In estimating the cost of any great work a percentage to cover contingencies is usually added to the price, and should be allowed. In view of the risk of injury to the works during construction, and of their failure to produce the stipulated depths, the committee is of opinion that twenty-five per centum should be added to the total estimated cost to cover contingencies. This would amount to $1,791,960, which, added to the cost of the work, makes the total sum of $8,959,800.

It is quite evident from the above figures that when Mr. Eads agrees to complete this work for $7,750,000, he believes that he will be able, by reason of his experience at the Mississippi jetties, to cheapen the cost in some respects. This would seem to be the only way in which he could make a profit for himself and his associates.

The concrete capping required at the Galveston jetties will no doubt largely exceed that on the Mississippi jetties. It appears in Corthell's History (p. 202) that the concrete work of the east jetty is only one mile in length and that of the west jetty one-half mile in length. Large reinforcements against the outside of the jetties, by the material composing the shoals, extend so far seaward there as to render it unnecessary to cover a greater length of the jetties to protect them against the violence of the waves. Mr. Corthell states (p. 202) that the concrete work is from 5 to 9 feet above the datum plane, or level of mean high tide. Mr. Eads is of opinion that at least 7 miles of concrete work will be required to secure the tops of the Galveston jetties, with an average height of 7 feet above mean high tide. Some of the blocks of concrete placed at the sea ends of the Mississippi jetties weighed more than 360 tons (Corthell's History, p. 202).

There are radical differences between the plan proposed by Mr. Eads and that of the United States Engineer officers. The plan of the latter involves a system of submerged jetties located about 12,000 feet apart, while that of Mr. Eads contemplates the raising of the jetties up several feet above high water and locating them much nearer together. Mr. Eads contends that the great principle of jetties consists in the conservation of the water; that the volume of the water flowing through the jetties can alone be depended upon to deepen the channel, and that just in proportion as that volume is decreased the scouring capacity of the current is decreased also; hence that deep water can never be secured by

the tidal action at Galveston so long as the jetties are submerged and the channel depleted of its volume by the overflow. Mr. Eads further called the attention of the committee to the fact that the great retarding element to the velocity of current is friction, and that just in proportion as the width of a channel is reduced the friction is reduced and the velocity of current correspondingly increased. He contends that the location of the jetties twelve thousand feet apart involves the intervention of so much friction that any substantial increase of the present depth of channel at Galveston need not be looked for. These conclusions are so consonant with reason that they must induce confidence in their correctness. The views of Mr. Eads in detail, as expressed by him before the committee, will be found in the Appendix hereto, marked B. Without entering into a discussion of the many questions of engineering involved in this work, the committee is satisfied that there must be serious defects in the plans upon which the work at Galveston has been carried on, else the ten years of time and the large amount of money expended by the Government would have been productive of some good results. Mr. Eads proposes to demonstrate the correctness of his views by the accomplishment of results before payment to him by the Government.

It has been urged upon the committee that the works of the United States Engineers have not yet been completed, and that until their completion the administration of this work should not be placed in other hands. The answer to this is:

1st. That the length of time already devoted to the work affords no ground for confidence in future success.

2d. That the work thus far has been, and still is, of an experimental character, and no positive assurance of results can therefore be given; and

3d. That it would be unwise for the Government to continue from year to year making large appropriations of public money, and assume all risks, when Mr. Eads is willing to guarantee results.

The fact that the Government officer now in charge of the work is sanguine of increased depths of channel in the near future does not induce a corresponding confidence in the committee.

From the beginning of this work in 1874 the officers in charge have felt sure of the best results. Major Howell regarded the "Gabionade" system as the solution of all difficulties, but several years of trial demonstrated his mistake. In the spring of 1883 Major Mansfield made the following official declaration (see Annual Report Chief of Engineers, 1883, Appendix, p. 1063):

> The result of the concentration and training of the ebb current upon a limited extent of the bar cannot be predicted exactly. I should be very much disappointed, however, if it did not result in a channel eighteen feet deep by next fall.

When the fall of 1883 came there was found to be absolutely no deepening at all.

There will be found in the Appendix hereto, marked C, a communication from Mr. W. L. Moody, a prominent citizen of Galveston, in which attention is called to a number of predictions heretofore made, and hopes expressed, by Major Mansfield in regard to the work, none of which have been realized. The communication also contains, in concise form, some valuable information as to past and present depths of water at Galveston.

In comparing the cost of the works proposed by Mr. Eads with the cost of those projected by the United States Engineers, it must be

borne in mind that the works differ very greatly in character, so much so, indeed, that it is hardly fair to make such comparison. Mr. Eads proposes a permanent work built up above high water, which, when completed, will maintain a navigable channel of 30 feet. He also agrees to construct such permanent works as will maintain a 30 foot depth of water over the inner bar. The work of the United States Engineers, however, is, as was seen, submerged; it is of an experimental character; it is being carried on under a plan which only contemplates the securing of 18 feet as a maximum depth, and no estimate whatever has been made at the cost of the works necessary to reduce the inner bar.

Appreciating the importance of securing deep water at Galveston promptly and surely, and with as little risk of loss to the Government as possible, the committee report back the accompanying bill with the recommendation that it do pass.

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## APPENDIX A.

[Senate Mis. Doc. No. 11, Forty-eighth Congress, first session.]

### REPORT IN REGARD TO THE PROPOSED IMPROVEMENT OF THE HARBOR OF GALVESTON, TEX. PREPARED BY JOSEPH NIMMO, JR., CHIEF OF BUREAU OF STATISTICS, IN REPLY TO AN ORDER OF THE SECRETARY OF THE TREASURY DATED MAY 27, 1884.

JUNE 19, 1884.—Presented by Mr. Coke, from the Committee on Commerce, ordered to be printed and recommitted to the Committe on Commerce.

CONTENTS.

1.—The lack of good harbors on the Gulf of Mexico, and especially on the coast of Texas.
2.—The growth of Texas; some facts in its history; increase of population; acreage of land under cultivation, production of cotton, cattle, wool, cereals, lumber, and increase of wealth.
3.—Railroads; with evidence of officers as to the probable results of improvement of the harbor of Galveston.
4.—The extent of territory the interests of which would be promoted by the improvement of Galveston Harbor, including a short dissertation on Mexican commerce.
5.—Some facts in regard to the trade of Galveston which tend to illustrate the need of the proposed improvement of the harbor of that city.
6.—The benefits which the improvement of the harbor of Galveston would, through competition, confer upon the commercial and industrial interests of the country.
7.—Effects of the proposed improvement upon other cities.
8.—Recapitulation of facts and deductions.
9.—Conclusion.

WASHINGTON, D. C., *June* 18, 1884.

SIR: In compliance with your order of the 27th ultimo, I have the honor to report as follows in regard to the importance of such improvement of the entrance to the harbor of Galveston as will enable sea-going vessels of the largest class to enter that port: At the present time vessels drawing more than 13½ feet of water are unable to enter at Galveston or at any other port on our Gulf coast from the mouth of the Mississippi to the mouth of the Rio Grande. It is proposed to construct across the bar at the entrance to that harbor a channel having a depth of 30 feet, at a cost of about $5,500,000. The character of the work to be done, and its cost mark it as a heroic enterprise. It is the object of this report to consider the question as to whether the Government of the United States would be justified in undertaking such a work upon the ground of its national importance, and also as to whether the proposed expenditure is warranted by the magnitude of the agricultural, commercial, industrial, and transportation interests which would be subserved by such improvement and by

the extent to which these interests would be advantaged by the construction of the proposed work.

In considering this somewhat broad subject I shall first advert to

THE NEED OF GOOD HARBORS ON THE GULF COAST OF THE UNITED STATES, AS ILLUSTRATED BY THE DISTRIBUTION OF THE NATURAL HARBOR FACILITIES OF THE UNITED STATES ALONG OUR ATLANTIC AND GULF COASTS.

The sea-coast of the United States north of Cape Henry, at the entrance to Chesapeake Bay, is abundantly supplied by nature with deep and commodious harbors, but south of that point there are but few good harbors. This fact may be more clearly illustrated by assuming harbors which admit vessels drawing 26 feet at mean high water to be first-class harbors, those admitting vessels drawing 20 and less than 26 feet to be second-class harbors, and those admitting vessels drawing less than 20 feet to be harbors of the third class.* Upon this assumption there are on the Atlantic coast of the United States north of Cape Henry, and more particularly on the New England coast north of Boston, many harbors both of the first and second class, but on our Atlantic coast south of Cape Henry there is only one of the first class, viz, Port Royal, in South Carolina, and only seven of the second class. West of the Tortugas Islands there is upon our Gulf coast but one harbor of the first class, namely, the harbor formed by the Mississippi River, and but two of the second class, viz, Tampa and Pensacola. Galveston Harbor is of the third class. Prior to the improvement of the mouth of the Mississippi by means of jetties, a work accomplished at the expense of the United States Government, the Mississippi River afforded only the advantages of a third-class harbor. A part of the available wharfage space at Pensacola for vessels drawing over 15 feet is occupied by the United States for military purposes, and Tampa is far out of the line of the great internal commercial movements of the country.

The harbors of Key West and Tortugas, at the entrance to the Gulf of Mexico, are formed by small islands and coral reefs. They admit vessels of the greatest draught and are of great value in a military point of view. They are excellent harbors of refuge and naval rendezvous; but, like Tampa, they are far out of the range of the great internal transportation lines of the country.

The bay of Mobile admits vessels drawing 20 feet; but the harbor of Mobile admits only vessels drawing not more than 17 feet of water.

Around Chesapeake Bay there are many more good harbors than on our entire Atlantic and Gulf coasts south of Cape Henry. The little island of Mount Desert, on the coast of Maine, has much better and more extensive natural harbor facilities than exist on our entire Gulf coast west of the Tortugas.

The wide intervals between the ports south of Cape Henry and their comparative inferiority rendered the South Atlantic and Gulf coasts easy of defense during the late war, and also easy to blockade.

The length of the coast line of the United States from Eastport, Me., to Cape Henry is 742 nautical miles; from Cape Henry to Cape Sable, Florida, 1,073 nautical miles, and from Cape Sable to the mouth of the Rio Grande River, 1,415 miles. (See Inclosure F.)

From the mouth of the Mississippi River to the mouth of the Rio Grande River—a distance about equal to the length of sea-coast line from Maine to Norfolk, Va.—there is not a single harbor either of the first or of the second class.

The harbor of Galveston, having a depth at its entrance at the present time of only 14 feet (see Inclosure T), is the best harbor on our entire Gulf coast from the mouth of the Mississippi to the Rio Grande. It is also believed to be the one most susceptible to such improvements as would constitute it a harbor of the first class. Its superiority to all the other ports of Texas is clearly indicated by the Coast Survey charts, and by the fact that the principal railroads of the State extend to Galveston or connect with railroads terminating at that point. This superiority is also indicated by the fact that the value of the exports of domestic merchandise from the port of Galveston during the year ended June 30, 1883, was $29,627,898, as against $957,639 at all the other ports of Texas by sea, and the value of imports of merchandise at Galveston during that year was $1,511,712, as against $735,677 by sea at all the other ports of the State.

* The official description of harbors, as stated by Capt. C. O. Boutelle, assistant in charge of office of the United States Coast and Geodetic Survey, is as follows: I. "Harbors of the first class are those which will admit vessels drawing 26 feet and under at mean high water." II. "Harbors of the second class are those which will admit vessels drawing 20 feet and under at mean high water. All other ports may be considered as of the third class."

The Great Lakes were no better supplied by nature with good harbors than was the Gulf coast of the United States. But by the construction of breakwaters or jetties at the mouths of certain small rivers, and the deepening of such rivers, about forty harbors have been constructed which meet the requirements of commerce on the lakes. In this manner adequate harbor facilities have been supplied at Oswego, at Buffalo, at Cleveland, at Chicago, at Racine, at Erie, and at Milwaukee. The total amount which had been expended for the improvements of rivers and harbors on the lakes up to the close of the fiscal year ended June 30, 1873, was $10,437,158. No later date is immediately available.

In its present condition the harbor of Galveston is greatly inferior to that of New Orleans prior to the improvement of the mouth of the Mississippi River by means of jetties. Then vessels drawing about 18 feet could enter at that point, as against only 13½ feet at Galveston. During the prevalence of easterly storms, to which the coast of Texas is subject, the waves break on the bar at Galveston Harbor, rendering it unsafe for vessels to attempt the passage at such times.

## THE GROWTH OF TEXAS, AND SOME FACTS IN ITS HISTORY.

Texas was admitted into the Union as a State on the 29th of December, 1845. Its area is 262,290 square miles, and is equal to that of the New England States, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and North Carolina combined.

By the terms of the joint resolution of Congress approved March 1, 1845, for the annexation of Texas to the United States, it was stipulated that new States, not exceeding four in number, in addition to the State of Texas, and having a sufficient population, might, after the annexation of that State, be formed out of the territory embraced within its borders. The stipulation was prompted by the exigencies of political issues which for many years disturbed the peace of the country, but which, in the progress of events, have no longer any political significance. At the present time the pride of vast territorial proportions, and a prevailing sentiment in favor of State unity, appear to be paramount to any disposition within the State looking to that subdivision of its territory which was a cherished expedient throughout the South at the time of the annexation of Texas.

By the terms of its annexation to the United States, Texas retained the ownership and control of its public lands. In disposing of such lands, a liberal policy has been pursued in the encouragement of immigration and in the promotion of railroad construction designed to develop the natural resources of the State and to place it in direct commercial communication with the other States and sections of the Union.

## POPULATION.

The population of Texas at the time of its admission into the Union in 1845, and at each decennial year since, is shown as follows:

| | Population. |
|---|---|
| 1845 (estimated) | 170,000 |
| 1850 (census) | 212,592 |
| 1860 (census) | 604,215 |
| 1870 (census) | 818,579 |
| 1880 (census) | 1,591,749 |
| 1884 (estimated) | 2,150,000 |

## ACREAGE OF LAND UNDER CULTIVATION.

The increase in the number of acres of land in farms in the State of Texas is shown as follows:

*Improved land in farms.*

| | Acres. |
|---|---|
| 1850 | 643,976 |
| 1860 | 2,650,781 |
| 1870 | 2,964,836 |
| 1880 | 12,650,314 |
| 1884 (estimated) | 17,000,000 |

### AGRICULTURE.

The following statement exhibits, in the order of magnitude, the value of the products of agriculture of the State of Texas, including also lumber and shingles, during the year ending August 31, 1883, and is from the best available information:

| | |
|---|---|
| 1. Cotton, 1,193,400 bales | *$58,000,000 |
| 2. Grain and hay | *48,032,263 |
| 3. Cattle (including the drive), 703,642 head | †16,346,980 |
| 4. Lumber and shingles | †9,226,413 |
| 5. Wool, 22,780,230 pounds | †4,100,441 |
| 6. Horses, 88,906 head | ‡3,455,788 |
| 7. Cotton-seed, cotton-seed cake and oil | †3,428,516 |
| 8. Hides, 13,312,746 pounds | †1,464,402 |
| 9. Sugar and molasses | †642,210 |
| Miscellaneous products | †2,876,419 |
| Total | 119,906,296 |

The products of agriculture in Texas which constitute the chief articles of exportation beyond the borders of the State are, in the order of magnitude, cotton, cattle and products of cattle and sheep and products of sheep—chiefly wool. The trade in these as well as in other products of agriculture constitutes a large and growing commerce.

Texas stands first among the States of the Union in the value of cattle and of sheep on farms, and also in the value of its cotton crop. These facts are clearly indicated in Inclosures H, I, and J.

The total value of the cattle of Texas in 1884, including milch cows, is stated by the Department of Agriculture at $91,256,301, the total value of sheep at $17,822,056, and the value of the cotton crop of 1883 at about $58,000,000.

### COTTON PRODUCTION.

The growth of the production of cotton in Texas is shown as follows for the census years 1849, 1859, 1869, and 1879, and for the years 1882 and 1883:

| | No. of bales. |
|---|---|
| 1849 | 58,072 |
| 1859 | 431,463 |
| 1869 | 350,628 |
| 1879 | 805,284 |
| 1882 | 1,326,000 |
| 1883 | 1,193,400 |

On account of the great value of cotton in proportion to its weight, it can bear the burden of transportation charges better than can almost any other product of agriculture in the United States. The result of this is that, in the order of magnitude, Galveston is the second cotton receiving and shipping port in the United States, notwithstanding the great disadvantage under which it labors with respect to the depth of water at the entrance to its harbor. (See Inclosure M.)

### THE PRODUCTION OF CEREALS.

The State of Texas has an immense area susceptible to the cultivation of wheat, corn, rye, oats, and barley. The average yield of wheat in the counties in which it is produced is believed to be fully equal to that of our Western and Northwestern States. The cereal crop of Texas matures about two weeks earlier than in the States north of the Ohio and Missouri Rivers.

The production of cereals in Texas for exportation beyond the borders of the State is, however, restricted by the great cost of its transportation to foreign markets, the principal cause of which is the fact that ships of the larger class, in which grain is usually and most economically transported upon the ocean, are unable to enter the harbor of Galveston. If such vessels should engage in this trade at that port, they would be obliged to lie in the Gulf outside the bar and to load by means of lighters. This is done to a considerable extent in the shipment of cotton; but the expense of such a mode of loading is an effectual barrier to a large grain trade at Galveston, and consequently limits the production of cereals almost entirely to the demand within the State of Texas. Attention is invited to Inclosure K, a statement in regard to the cereal production of Texas, by Mr. J. R. Dodge, statistician of the Department of Agriculture.

* Furnished by J. R. Dodge, statistician Department of Agriculture.
† Galveston Daily News, September 1, 1883. ‡ Estimated.

### THE PINERIES OF TEXAS.

The area of the pine lands of Texas is about 32,300 square miles, which is about the area of the State of Indiana. It would be difficult to estimate the value of such an enormous supply of lumber and of timber upon the development of a State like Texas, which has vast areas of untimbered prairie lands.

### WEALTH.

The assessed value of real estate and personal property in Texas was, in 1883, $527,537,390.

It is stated, however, upon reliable authority, that the assessed valuation is only about 50 per cent. of the actual valuation. Allowing for this difference, and for the increase in the value of property during the last year, it is believed that the total value of property in the State of Texas is at the present time not far from $1,000,000,000.

### RAILROADS.

The State of Texas is dependent almost entirely upon railroads for the means of internal transportation. Her rivers are not navigable except for lighters and vessels of the smallest size. The increase of the railroad mileage of the State affords, therefore, a measure of her commercial growth. In the year 1850 there was not a mile of railroad in the State. The increase of railroad mileage since 1860 is shown as follows:

| | Railroad mileage. |
|---|---|
| 1860 | 307 |
| 1870 | 711 |
| 1880 | 3,257 |
| 1884 | 6,166 |

The State of Texas now stands sixth in the order of magnitude of railroad mileage among the States of the Union. (See Inclosure L.)

The number of miles of railroad in Texas under each separate corporate ownership and control is shown as follows:

*Number of miles of railroads in the State of Texas.*

| | | Miles |
|---|---|---|
| Missouri Pacific, or Gould system | standard gauge, 4.8½ | 2,644 |
| Southern Pacific system | do | 1,956 |
| Gulf, Colorado and Santa Fé system | do | 536 |
| Texas and Saint Louis Railway | narrow gauge | 305 |
| Texas and Mexican Railway | do | 176 |
| Austin and Northwestern Railroad | do | 60 |
| Texas and Western Railway | do | 57 |
| Houston, East and West Texas Railway | do | 135 |
| Fort Worth and Denver City Railway | standard gauge, 4.8½ | 114 |
| New York, Texas and Mexican Railway | do | 92 |
| Texas Trunk Railroad | do | 35 |
| Rio Grande and Pecos | narrow gauge | 26 |
| Rio Grande Railroad | do | 22 |
| Atchison, Topeka and Santa Fé Railway | | 8 |
| Total | | 6,166 |

The rapid growth of Texas in population and all other evidences of material prosperity has been mainly the result of the construction of railroads.

The actual value of the railroad properties of Texas is about $160,000,000. This large expenditure of private capital in supplying the means of internal transportation in Texas expresses faith in the resources of that State, and emphasizes the importance of securing for it a first-class seaport. Such expenditure stands also as the strongest indorsement of any practicable plan for the accomplishment of that object. The proposed improvement of the entrance to the port of Galveston would constitute a connecting link between this great system of internal transportation and the ocean, nature's great free highway of commerce. Besides the advantages which would accrue to the railroad system of the State from such an improvement, it would also subserve the railroad interests of other States and Territories from the Mississippi River to the Pacific coast. It has been thought that the nature and extent of such advantages to railroad interests could best be expressed by persons interested in and competent to

speak for the principal railroad organizations of Texas and of the adjoining States and Territories. Accordingly, officers of the Missouri Pacific, or Gould system; of the Southern Pacific, or Huntington system, and of the Gulf, Colorado and Santa Fé Railway Company have been requested to give their opinions upon the subject.

The reply of the Missouri Pacific Railway Company is forwarded herewith as Inclosure A, the same being a letter addressed to the chief of this Bureau by Capt. R. W. Meade, of the United States Navy, now connected with the management of the affairs of that company. In the opinion of Captain Meade, such improvement at the harbor of Galveston as would admit the entrance of vessels of the largest class would be of very great importance to the entire Missouri Pacific Railway system, both with respect to its freight traffic and to the transportation of immigrants.

The aggregate mileage of the Missouri system is 6,029 miles, and it embraces in Texas alone 2,644 miles of road. Captain Meade states that the harbor of Galveston is the only one of any account on the coast of Texas, and that the coast at this point is one of the safest of approach. He also states, in a letter dated June 11, that in his belief the port of Galveston would, if improved, in time become an important port for the exportation of cotton from Arkansas, of ores and grain from Southern Kansas and California, and of ores from Arizona, New Mexico, and the Mexican States of Sonora, Chihuahua, and Coahuila. He also expresses his belief that upon the completion of the improvement of the harbor of Galveston there would be a large increase of trade between that port and the countries of Europe, and that immigration from Europe to Texas, Arkansas, and the southern portions of Missouri and Kansas would be diverted to that route.

Mr. C. P. Huntington, vice-president and general agent of the Central Pacific Railroad and leased lines, embracing the Southern Pacific line from San Francisco to El Paso, Tex., and the Galveston, Harrisburgh and San Antonio Railway system, extending from El Paso to Galveston and to New Orleans, expresses very decided views in regard to advantages which will be afforded by the proposed harbor improvement at Galveston. (See Inclosure B.) Mr. Huntington's statement was made to this office under date of August 27, 1883. He states that the improvement of the entrance to Galveston Harbor would shorten the rail distance from the Pacific coast to tide-water on the Gulf of Mexico 300 miles, or 15 to 20 per cent., and that the advantage of the proposed improvement of the harbor of Galveston would be felt over the line of the Southern Pacific Railroad to California, a distance of 2,200 miles.

Col. W. L. Moody and Mr. Walter Gresham, directors of the Gulf, Colorado and Santa Fé Railway Company, have, under date of June 13, presented a statement showing very clearly the advantages which would accrue to their lines, embracing 534 miles of completed road in Texas. This company is now before Congress asking the right of way through the Indian Territory, with a view to the extension of its line into Kansas. They have also a line in contemplation which will extend to Colorado. These gentlemen state that in their opinion the traffic of their system of roads would almost immediately be doubled by securing the proposed depth of 30 feet of water at the entrance to the harbor of Galveston; and that the agricultural and industrial interests of all parts of Texas reached by their lines would thereby be greatly promoted. Their statement is transmitted herewith. (See Inclosure C.)

The three gentlemen whose opinions have just been stated speak for 5,136 miles of railroad in the State of Texas, or 83 per cent. of the total railroad mileage of the State, and, besides, for nearly 5,000 miles of railroad beyond the borders of the State.

### THE EXTENT OF TERRITORY THE INTERESTS OF WHICH WOULD BE PROMOTED BY THE IMPROVEMENT OF GALVESTON HARBOR.

The territorial limits of the commerce of Galveston are at the present time an undeveloped possibility. This is largely due to the sparseness of the population of Texas in proportion to its vast territorial extent, as well as to the fact that the depth of water at the entrance to its harbor affords the maritime advantages of only a third-class port. If the proposed depth of 30 feet at the entrance to the port of Galveston could be secured that port would become the nearest and most accessible first-class seaport for the States of Texas, Kansas, and Colorado, the Indian Territory, the Territories of New Mexico and Arizona, and parts of the States and Territories adjoining those just mentioned. This is clearly proved by the testimony of the railroad officers whose opinions have just been presented in regard to the effects of the proposed improvement of the harbor of Galveston upon the railroad interests which they represent, and upon the commercial and agricultural interests with which their traffic interests are connected.

In view of the great importance of this matter, a letter was also addressed to Mr. William H. Miller, secretary and treasurer of the Kansas City Board of Trade, inquiring as to the advantages which would be afforded to Kansas City, the State of Kansas, and Western Missouri by the improvement referred to. Mr. Miller has for several years been employed in the capacity of an expert by this office in connection

with the internal commerce branch of its work, and the chief of this Bureau entertains a high opinion of his knowledge of those matters of a commercial nature which for years have been the subject of his observation and study, and also of his judgment in regard to questions arising in relation thereto.

In his letter, transmitted herewith as Inclosure D, Mr. Miller expresses a very decided opinion as to the great advantage which the proposed improvement of Galveston Harbor would confer upon the commercial interests of Kansas City, and also upon the productive interests of Texas, Western Louisiana, Arkansas, Missouri, Western Iowa, Nebraska, Kansas, Colorado, and New Mexico. He states that the rail distance from Kansas City to Galveston is 600 miles less than to ports on the Atlantic seaboard, and that the grain and packing-house products shipped from Kansas City would supply a large demand for ballast freights of cotton-carrying vessels, thus securing an advantage with respect to the rates on grain and provisions not supplied at Atlantic ports.

It is usual to regard one mile of rail carriage as the equivalent of about four miles of transportation by sea. Upon this assumption the equated rail distances from Kansas City to Liverpool via New York and via Galveston would be about equal.

It may be remarked also in this connection that the central portions of the State of Kansas are about equidistant from Chicago and Galveston.

Mr. Miller states that not only would the rates via Galveston exert a strong regulative influence over all rates by rail from Kansas City to the Atlantic seaboard, but also that a very considerable reciprocal trade would spring up by that route between Kansas City and Europe, the West India Islands, Mexico, and South America.

### COMPARATIVE EXTENT AND IMPORTANCE OF THE AREA OF COUNTRY WHICH MAY BE SUBSERVED BY THE PORT OF GALVESTON.

The entire territory of which Galveston would become the nearest and most accessible first-class sea-port, namely, the States of Texas, Kansas, and Colorado, the Indian Territory, and the Territories of New Mexico and Arizona, with parts of contiguous States and Territories, has an area of about 797,000 square miles. This is equal to the aggregate area of the New England States, New York, New Jersey, Pennsylvania, Maryland, Delaware, Virginia, Ohio, Indiana, Illinois, Michigan, Wisconsin, North Carolina, Kentucky, Tennessee, Iowa, Minnesota, Nebraska, the aggregate population of which States in the year 1880 was 35,756,780, as against a population of only about 3,000,000 within the area referred to, as being embraced within the range of the commercial enterprise of Galveston, under the favoring condition of a first-class harbor.

The area of which Galveston would thus become the nearest and most accessible sea-port is also equal to the aggregate area of Great Britain and Ireland, France, Spain, Italy, and the German Empire, the total population of which countries is about 163,000,000, and is fully equal to those countries in the extent of land susceptible to culture, in fertility of soil, and in all the capabilities of material prosperity. Attention is invited to Inclosure E, the same being statements furnished to this office by the Chief Signal Officer of the United States Army, showing the mean annual precipitation throughout the area mentioned as being naturally tributary to the commerce of Galveston. The comparison as to rainfall in this area and in the countries of Europe above referred to is quite favorable to the former. These facts suggest the possibility of an enormous increase of wealth and of population within this area described as being within the range of the commercial activities of Galveston. Evidently the present development of the resources of the State of Texas and of its neighboring States and Territories are to the possibilities of such development but as a beginning. The proposed improvement of Galveston Harbor has therefore a prospective importance vastly exceeding its value to interests which would thereby be observed at the present time.

### MEXICAN COMMERCE.

The need of a first-class sea-port in Texas has been greatly increased by the recent extension of railroads from the United States into Mexico. The completion of the Mexican National and of the Mexican International Railroad lines will connect the chief centers of trade and industry in Mexico with the Texas railroad system, which, as already stated, depends chiefly upon the harbor of Galveston for the facilities of ocean commerce.

In a recent report of this office in regard to commerce between the United States and Mexico it was shown that the trade between the two contiguous countries will hereafter be carried on chiefly over railroads. This appears evident from the following considerations: First, nine-tenths of the *population* of Mexico reside on the high table-lands, where are carried on the chief agricultural and mining industries of the country. Second, the hot, unhealthy belt of land along the Gulf Coast (*tierra caliente*)

is repellent to foreign commerce. Third, there is no port of Mexico on the Gulf north of Vera Cruz at which vessels can enter when drawing over 10 feet of water, and south of that point there is no harbor at which vessels can enter when drawing over 12 to 15 feet of water. Vessels of 24 feet draught may enter the harbor of Vera Cruz, but at that point are obliged to load and unload by means of lighters while lying half a mile from the shore. (See Inclosure G.)

A full and complete statement upon this subject has been furnished to this office by Lieutenant-Commander George W. Pigman, of the United States Navy, acting hydrographer of the Bureau of Navigation. (See Inclosure C.)

For these reasons it is apparent that upon the completion of the improvement proposed to be made at the entrance to Galveston Harbor, and of the railroads in Mexico in course of construction, that port will be the most accessible of all the Gulf ports for the commerce of the central and northern portions of Mexico with countries beyond the sea.

The area in Mexico which will thus be brought within range of the commerce of Galveston is about as large as that of the State of Texas. The magnitude of this probable commercial development is of course a matter which can only be determined by the results of practical experience under the new conditions governing the commercial relations between the United States and Mexico introduced by the construction of railroads.

SOME FACTS IN REGARD TO THE TRADE OF GALVESTON WHICH TEND TO ILLUSTRATE THE NEED OF THE PROPOSED IMPROVEMENT OF THE HARBOR OF THAT CITY.

The need of improving the harbor of Galveston is clearly indicated by the fact that notwithstanding the barrier to commerce imposed by the bar at its entrance, the trade of that city has rapidly increased. The tonnage of vessels entered from foreign countries rose from 31,555 tons in 1870 to 153,614 tons in 1883 (see Inclosure N), and the total value of the foreign commerce of the city increased from $15,382,963 in 1870 to $31,140,759 in 1883. The population of the city also increased from 13,818 in 1870 to 22,248 in 1880. The great need of the improvement here referred to is also clearly indicated by the fact that during the year ended June 30, 1883, there were 15 ships which came to Galveston for cargoes of cotton, and were entirely loaded by means of lighters while lying in the Gulf about 11 miles from the city wharves, and that during the same year there were 186 vessels, loaded in part at the wharves of the city, and in part while lying in the Gulf outside the harbor. These facts in regard to the growth of commerce at Galveston, in the face of a great maritime disability, clearly point to the importance of the geographical position of that port with reference to the commercial needs of the extensive range of country which is naturally tributary to that city.

The importance of the proposed improvement is indicated also by the fact that steamers composing the regular lines plying between Galveston and other ports, namely, the Morgan line to New Orleans and New York, and the Mallory line to New York, have been designed and built with special reference to the depth of water on the bar at the entrance to the harbor of Galveston. Vessels of equal tonnage, built according to customary models, have too great a draught of water to engage in the trade of that city except under the disadvantages before alluded to, of loading while lying outside the harbor. This fact, of course, affords to the steamers built expressly for the Galveston trade a very decided advantage over other steamers, but, at the same time, the disability which gives rise to this advantage debars Galveston from enjoying the important benefits of the competition of the largest ships engaged in maritime commerce. Attention is invited to Inclosures Q, R, and S, which present data of interest in regard to the commerce of Galveston, the relative of its imports and exports, and of the tonnage employed at that port in foreign trade.

THE BENEFITS WHICH THE IMPROVEMENT OF THE HARBOR OF GALVESTON WOULD, THROUGH COMPETITION, CONFER UPON THE COMMERCIAL AND INDUSTRIAL INTERESTS OF THE COUNTRY.

The facts hereinbefore presented appear clearly to prove that if the harbor of Galveston shall be so improved as to admit the entrance of vessels of the largest size, the various railroads connecting that city with Arkansas, Western Missouri, and Western Iowa, Kansas, Nebraska, Colorado, and New Mexico will become active competitors with railroads extending east, not only with respect to trade with Europe, but also with respect to trade between the area referred to and the chief Atlantic sea-ports. This is clearly indicated by the testimony of Capt. R. W. Meade, an officer of the Missouri Pacific Railway, and also by that of Mr. Miller, secretary of the Board of Trade of Kansas City. This competition would, in practice, assert itself, not only in the transportation of products of the interior, by way of Galveston, but also, and, perhaps to a greater extent and more beneficially, in the regulating influence which it

would exert over the rates charged by all the east and west railroads extending from Colorado to the Atlantic seaboard. The magnitude of the advantages which would thus be afforded to the commercial and industrial interests of the country it is impossible accurately to compute or even approximately to estimate, but the great importance of such advantages is clearly apparent.

The Southern Pacific Railroad would, also, as shown by Mr. C. P. Huntington, in a statement made to this office a few months ago, be the better enabled, through such improved harbor facilities at Galveston, to compete for direct traffic between California and New York by rail, and also via the Isthmus of Panama. It would also be the better enabled to engage in the carrying of grain from California to Europe, and thus to compete with vessels pursuing the voyage from San Francisco to Europe by the way of Cape Horn.

In view of the statements hereinbefore presented as to the vast area of country the commercial and industrial interests of which would be directly subserved by the proposed improvement of the harbor of Galveston, and by the fact that such improvements would also, through competition, directly benefit a very large proportion of the whole country, it appears proper to characterize that project as a work of great national importance.

At this day, when the problem of regulating commerce among the States by rail presents itself so forcibly to the mind of the national legislator, it appears well, also, to call attention to the fact that the promotion of competition between commercial cities, and between rail lines so far separated and having so many diverse interests that they cannot possibly eliminate the force of competition, supplies an expedient more certain, more constant, and more reliable in its beneficial features than does any conceivable direct administrative measure assertive of the undoubted power of the National Government over rates.

In this view it appears to be a manifest duty of the Government to neglect no practicable and useful measure, the effect of which would be to secure so extensive and important a regulating influence, as that which may be expected to follow such improvement of the harbor of Galveston as will supplement the work of a vast railroad system of transportation and place it in direct communication with the most ample facilities of maritime commerce.

### EFFECTS OF THE PROPOSED IMPROVEMENT UPON OTHER CITIES.

One of the direct effects of the proposed improvement of the harbor of Galveston would undoubtedly be to enable that city the more effectually to compete with other cities, and notably with its two sharpest competitors, Saint Louis and New Orleans. But that the advancement of Galveston by the means proposed would prove detrimental to the two other cities just mentioned is a thought which can hardly be seriously entertained. As well might it be supposed that the prosperity of Philadelphia and of Boston is detrimental to the prosperity of New York. Any expedient which tends to the development of that vast and productive area in which Saint Louis and New Orleans and Galveston freely compete must tend to the advancement of the commercial interests of each one of those cities. In this connection attention is invited to a table showing the distances apart of various cities in this country. (See Inclosure O.)

### RECAPITULATION OF FACTS AND DEDUCTIONS.

The facts and deductions hereinbefore presented may be recapitulated as follows:

1. There is a great lack of harbor facilities on the Gulf of Mexico, and especially on that portion of the Gulf west of the mouth of the Mississippi River.

2. The harbor of Galveston is believed to be the one most susceptible of such improvement as would constitute it a first-class harbor.

3. The vast resources and the rapid growth of Texas, and of adjoining States and Territories, and the important bearing of the improvement of the harbor of Galveston upon the development of those resources, appear to warrant the proposed expenditure.

4. The traffic interests of over 6,000 miles of railroad in Texas, the actual value of which is about $160,000,000, and to a considerable extent the traffic interest of about 5,000 miles of railroad outside of the State of Texas, would be greatly advanced by the construction of the proposed work.

5. The commercial interests of an area as large as Great Britain and Ireland, France, Spain, Italy, and the German Empire would be greatly promoted by such improvement of the entrance to the harbor of Galveston.

6. The proposed improvement would, through competition, exert an important regulating influence over the rates for transportation across the entire continent, over the rates charged via the Isthmus of Panama, and by sea-going vessels engaging in the transportation of grain from California to Europe.

CONCLUSION.

The foregoing facts and considerations appear clearly to prove that the proposed improvement at Galveston Harbor is a work of great national importance. At no time since the annexation of Texas has the condition of national affairs been so favorable as at the present time to the adoption of measures for supplying to the Southern States, and more especially those bordering on the Gulf of Mexico, the greatly needed harbor facilities, and at the same time of adopting a measure the effect of which will be to exercise an important and extensive regulating influence over the internal commerce of the country.

Besides the vast commercial interests which would be promoted by the proposed improvement at Galveston in case the method by jetties, as proposed, should be adopted, such works would in themselves render available a most effective means of harbor defense, viz, the use of torpedoes, or other instruments of warfare, at the entrance to the jetties. In a military point of view the proposed improvement would therefore subserve an important economy.

As the result of a somewhat careful consideration of this whole subject, I hesitate not to express the opinion that the proposed expenditure, if wisely directed, would be abundantly justified by the great public interests which it would subserve.

I am, sir, very respectfully yours,

JOSEPH NIMMO, JR.
*Chief of Bureau.*

Hon. CHARLES J. FOLGER,
*Secretary of the Treasury.*

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[Inclosure A.]

*Letters addressed to the Chief of the Bureau of Statistics by Capt. R. W. Meade, United States Navy, an officer of the Missouri Pacific or Gould system of railroads.*

THE MISSOURI PACIFIC RAILWAY COMPANY,
EXECUTIVE OFFICE,
*Saint Louis, Mo., May* 26, 1884.

DEAR SIR: Mr. George C. Smith, private secretary to Mr. Hayes, has handed me your telegram to him and requests me to answer it, presuming, I suppose, that my long experience in the Navy may enable me to throw additional light on the advantages of a deep channel into Galveston Harbor as an aid to our southwestern railway system.

We have one line only into Galveston, namely, the Galveston, Houston and Henderson Railway, leased by us for ninety-nine years, but it has terminal facilities not possessed by any rival line.

This road extends 50 miles to Houston, where it joins the Gulf division of the International and Great Northern Railway, and from thence 151 miles to Palestine, where it taps the main line and connects with our entire net-work of railways in Texas, made up as it is of the International and Great Northern, the Missouri, Kansas and Texas, and the Texas and Pacific roads, about 2,644 miles in all, or nearly one-third of the entire system comprehended under the generic title of "the Missouri Pacific Railway Company."

It seems hardly necessary for me to enlarge upon the advantages that must accrue to this system of railways when immigration from Europe to Galveston is made easier by a deep-water channel which will enable the deepest-draught steamer to go straight to our terminal wharves.

A change from the depth of 13½ feet to, say, 26 feet, would, it is thought, bring a large part of the German immigration to Texas direct.

When once over the bar, the harbor of Galveston is commodious and well sheltered, the only one, in fact, of any account on this coast. The approach to the coast is easy and safe, and from an experience of 14 months in command of a blockader in 1864–'65, I can say that it is, as to weather and approaches, in all seasons, one of the safest of coasts. The only serious storms are the "northers," which always blow off-shore and give ample notice of their approach, and it is very rarely the case that a West India cyclone reaches as far as the Texas coast, though I had personal experience of a heavy one near Sabine Pass in 1865.

Direct immigration from Europe to Texas would be of immense advantage in the development of the State, and it is reasonable to suppose our lines would have a fair share of the resulting prosperity.

That our agents are keen to appreciate the situation is evidenced by the care which

is taken by them to throw light upon the present condition and astonishing progress of Texas, by means of pamphlets and papers sent out broadcast.

For many of the facts contained therein our thanks are justly due to the efficient Bureau over which you yourself preside, and for which I am glad to know credit is duly given by our agents.

Very truly, yours,

R. W. MEADE.

JOSEPH NIMMO, Jr.,
*Chief of Bureau of Statistics,*
*Treasury Department, Washington, D. C.*

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THE MISSOURI PACIFIC RAILWAY COMPANY,
EXECUTIVE OFFICE,
*Saint Louis, Mo., June* 11, 1884.

DEAR SIR: In reply to your telegram of yesterday's date, I would say that it is my opinion the improvement of the ship channel into Galveston Harbor, besides the benefit that will accrue to Texas, must in a greater or less degree affect the State of Arkansas and the southern portions of Missouri and Kansas by diverting some part of the immigration from Europe to these States over the lines of the Missouri, Kansas and Texas and Iron Mountain Railways.

Lands are still very cheap in Arkansas and Southern Missouri, and comparatively so in Southern Kansas. Fortune is in store for the sober and thrifty immigrant who within the next decade purchases land in these sections of our country, and the tide of immigration once turned via Texas to these States will steadily increase year by year as their resources become better known to the class of people in Europe from which the immigration is drawn.

In addition to this, I believe the port of Galveston would in due time become a great entrepôt for the export of cotton, grain, and ores, the first being drawn from the States of Texas and Arkansas, the second from Southern Kansas and California (short hauls), and the last from Arizona, New Mexico, and the Mexican States of Sonora, Chihuahua, and Coahuila. Trade will nearly always seek those routes over which freight is reasonably remunerative *both* ways, and I should confidently look for a great increase of trade between the European ports and Galveston with that port once fairly opened to deep-draught steamships.

Very truly, yours,

R. W. MEADE.

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[Inclosure B.]

*Extract from a letter addressed to Joseph Nimmo, jr., Chief of Bureau of Statistics, by C. P. Huntington, esq., vice-president and general agent of the Southern Pacific Railroad.*

The question of which will be the natural Gulf port for doing the grain business of this company drawn from the country west of the 100th meridian is one depending partly for its solution upon the efforts of hydraulic engineering. The port of Galveston has for years had but 12 feet of water at low tide on her outer bar. The Government works have been so far advanced as to increase that depth to 14 or 15 feet; and it is believed by the engineer in charge that 25 or 26 feet can be secured by a continuance of the works. Judging by the progress heretofore made, it would be wiser for the General Government to let the work to private parties under contract, letting the payments be contingent upon depth of water obtained. In this way there would be less time consumed, and the risk of failure would be upon the contractors themselves. Should this hope be realized, it will result in making Galveston Bay the best as it is also the nearest port for the transaction of this business. Galveston is otherwise more accessible from the sea than New Orleans, and the land carriage will thus be shortened fully 300 miles, while the water carriage, taking one season with another, would be virtually the same as to New Orleans. Here, then, is a saving of about 15 to 20 per cent. in distance, and I conceive that your tables of calculations, if they are to have anything more than an ephemeral interest, should be based upon a distance of, say, an average of 2,000 miles from the wheat field to the nearest Texas port of shipment, rather than 2,495 miles, which you have invariably adopted for comparison.

[Inclosure C.]

*Letter addressed to the Chief of the Bureau of Statistics by Col. W. L. Moody and Mr. Walter Gresham, directors of the Gulf, Colorado and Santa Fé Railroad, in regard to the advantages which the improvement of Galveston Harbor would confer upon the interests of their line.*

WASHINGTON CITY, D. C., *June* 13, 1884.

DEAR SIR: We have the honor to acknowledge the receipt of your favor of June 3, 1884. You request us, as directors in the Gulf, Colorado, and Santa Fé Railroad system, to give our opinion on the advantages likely to accrue to said system by the improvement of the Galveston Harbor, so as to admit vessels of the largest draught. Also to inform you as to the character of the traffic of this road and the manner in which such traffic is related to ocean commerce.

We beg to reply that this system at present operates a line from Galveston to Fort Worth, 345 miles; from Temple to Lampasas, 56 miles; from Cleburne to Dallas, 53 miles; from Somerville via Navasota to Montgomery, 56 miles; and from Alvin to Houston, 24 miles; making a total of 534 miles of completed road. The money is subscribed, and it is proposed at once to extend the main line and branches 200 miles.

The system is owned chiefly and is controlled by the citizens of Galveston, where the main office is. To what extent it would be benefited by such improvement of the Galveston Harbor as indicated by you it would be impossible to estimate. Every inch of increased depth of water would necessarily benefit the system. To admit vessels of the largest class would be to benefit the system beyond measure.

At present, there being only 13 feet of water at mean low tide on the Galveston bar, the bulk of the products of our own State (Texas) are diverted to ports and markets other than Galveston.

The export traffic of this road consists chiefly of cotton, hides, wool, hay, and grain, live stock, and cotton seed. The reduction in ocean rates of freight, which would result from the suggested improvement of Galveston Harbor, we think it safe to say, would enable our road to control for export over its line at least 50 per cent. increase of the products of the State otherwise diverted. Of course the imports would be immeasurably increased and our system correspondingly benefited.

This reduction would also stimulate industry, and every product would rapidly increase. Take wheat alone, the production of which at present is limited to but little more than local consumption. Deep water at Galveston would at once so reduce the cost of handling, that millions of bushels would pass over this road raised all along its lines, to say nothing of the unlimited supply from Kansas, Colorado, and other States whose nearest ocean outlet would be at Galveston.

The Gulf, Colorado and Santa Fé Railroad at present penetrates the finest cotton and grain-growing counties in the State; in fertility of soil equal to any in the world. It also reaches the sugar lands and pastoral regions of the West. It is proposed to extend its main line from Lampasas in a northwesterly direction toward Santa Fé, in New Mexico, and its branches from Fort Worth north through the Indian Territory, and from Dallas in a northeasterly direction, thus securing outlets and connecting with the vast systems of railroads throughout the country.

Contemplating the wonderfully rapid development of our own State and the States and Territories north and northwest of us, who can measure the advantages certain to accrue to every railway system in Texas by the improvement of the Galveston Harbor so as to admit vessels of the largest draught?

With great respect, we are yours, truly,

W. L. MOODY,
WALTER GRESHAM,
*Directors in Gulf, Colorado and Santa Fé Railroad Company.*

Hon. JOSEPH NIMMO, Jr.,
*Chief of Bureau.*

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[Inclosure D.]

*Letter addressed to the Chief of the Bureau of Statistics by Mr. William H. Miller, secretary and treasurer of the Kansas City Board of Trade, in regard to the benefits which would be conferred upon Kansas City and contiguous territory by the proposed improvement at the entrance to Galveston Harbor.*

(Board of Trade, office of the secretary and treasurer. J. S. Chick, president; W. H. Miller, secretary and treasurer.)

KANSAS CITY, MO., *June* 9, 1884.

DEAR SIR: Your telegram and letter asking the effect the deepening of Galveston Harbor would have upon the commerce of Kansas City and the material interest of Kansas have been received.

In reply, I would say that no improvement that could be made by the Government would in my judgment be so beneficial, except, perhaps, the improvement of the Mississippi and Missouri Rivers. The distance by rail from Kansas City to Galveston is about 600 miles less than to the Atlantic ports, and the movement of our cereal and packing-house products in that direction would command correspondingly lower rates, which would be of very great benefit. The inadequacy of Galveston Harbor for large vessels is now, it is believed, the chief impediment to such a movement. Much of the grain and packing-house products moved from Kansas City go to seaboard markets for export, and if it could find such a market 600 miles nearer than those at present sought it would inevitably seek it. Besides this fact, our products are needed at Galveston for ballast for cotton-carrying vessels, which, not being the case at Atlantic ports, would secure us ocean rates so far reduced from a mileage pro rata as to overcome the difference in distance of ocean transit to all European ports. The same considerations apply equally to the importation of salt and other heavy articles. The improvement of this harbor would therefore establish a new outlet for this port of the West, which would from the first exert a regulative influence upon rates to Atlantic ports, and which would probably soon become a favorite one for all our commerce with Europe, the West Indies, Mexico, and South America; and its effects would be felt not only in Texas and Western Louisiana, but in Arkansas, Missouri, Western Iowa, Nebraska, Kansas, Colorado, and New Mexico.

As early as 1874 the people of Kansas City and Galveston attempted to establish a commercial interchange which would direct the movement of our cereal and pork-product exports and our heavy imports into that channel. Our railroad connections had then just been effected, and that part of the road south of Corsicana was of broad gauge, which required the breaking of bulk. Besides this, the immigration into Texas at that time was so great that the Missouri, Kansas and Texas Railroad was burdened to its fullest capacity southward and hauled its cars north empty, which embarrassed the movement of trade toward Galveston and made rates high. Still an elevator was built at Galveston, and considerable business was done, until it was found that the condition of the harbor was an impediment that only the proposed improvement could overcome. The effort since has been to overcome that impediment, and so soon as it is done this will become the great route for all our intercourse with the West Indies and South America, largely so for Mexico, and a most potent regulative competition for all our intercourse with Europe and the coast cities of our Gulf States.

The people of Kansas City and Galveston are ready and prepared for the interchange; the railroad facilities between us now are adequate, and with the completion of railway extension now in course of construction or proposed all the country above mentioned will soon be intimately connected with Galveston and prepared for its full benefit. The lines of trade that would be benefited include all that we send abroad or receive from abroad, but especially the export of cereal and packing-house products and the importation of the products of Mexico, South America, the West Indies, and the Gulf States of our own country.

Very respectfully.

W. H. MILLER.
*Secretary.*

Hon. JOSEPH NIMMO, Jr.,
*Chief of Bureau of Statistics,*
*Washington, D. C.*

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[Inclosure E.]

WAR DEPARTMENT,
OFFICE OF THE CHIEF SIGNAL OFFICER,
*Washington City, June 6,* 1884.

SIR: Referring to your communication of the 31st ultimo, I have the honor to inclose herewith extract from the records of this office.

I am, very respectfully, your obedient servant,

W. B. HAZEN,
*Brig. and Bvt. Maj. Gen., Chief Signal Officer, U. S. A.*

Mr. JOSEPH NIMMO, Jr.,
*Chief of Bureau of Statistics, Treasury Department.*

*Statement showing the mean monthly and mean annual precipitation in inches and hundredths, at the below-named stations of the Signal Service, United States Army, compiled from the commencement of observations, from the records on file at the Office of the Chief Signal Officer of the Army, to December, 1883, inclusive, except at stations closed prior to the latter date.*

| Stations. | Established. | Discontinued. | Average precipitation. | | | | | |
|---|---|---|---|---|---|---|---|---|
| | | | January. | February. | March. | April. | May. | June. |
| Fort Gibson, Ind. T | Apr. 1, 1873 | April, 1882 | 2.19 | 2.19 | 2.80 | 4.28 | 4.68 | 4.56 |
| Fort Sill, Ind. T | June 23, 1875 | | 1.18 | 1.87 | 1.35 | 2.44 | 5.03 | 5.02 |
| Dodge City, Kans | Sept. 15, 1874 | | 0.28 | 0.58 | 0.70 | 1.25 | 4.33 | 2.55 |
| Leavenworth, Kans | May 21, 1871 | | 1.35 | 1.60 | 2.39 | 3.56 | 5.07 | 5.89 |
| Colorado Springs, Colo | Jan. —, 1874 | July, 1876 | 0.14 | 0.43 | 0.75 | 1.46 | 3.59 | 1.30 |
| Denver, Colo | Nov. 19, 1871 | | 0.69 | 0.43 | 0.86 | 1.71 | 3.05 | 1.60 |
| West Las Animas, Colo | Oct. 1, 1881 | | 0.14 | 0.27 | 0.12 | 0.96 | 3.28 | 2.56 |
| Fort Apache, Ariz | Oct. 9, 1877 | | 1.41 | 1.72 | 1.28 | 0.65 | 0.43 | 0.96 |
| Phœnix, Ariz | May 9, 1877 | | 0.62 | 0.78 | 0.64 | 0.37 | 0.09 | 0.12 |
| Prescott, Ariz | Nov. 19, 1873 | | 1.19 | 0.81 | 0.90 | 0.82 | 0.46 | 0.15 |
| Tucson, Ariz | Dec. 2, 1875 | June 15, 1883 | 0.80 | 0.91 | 0.93 | 0.23 | 0.10 | 0.28 |
| Yuma, Ariz | Nov. 18, 1873 | | 0.43 | 0.52 | 0.08 | 0.09 | 0.01 | 0.01 |
| La Mesilla, N. Mex | June 16, 1876 | Aug. 6, 1882 | 0.42 | 0.57 | 0.41 | 0.15 | 0.65 | 0.44 |
| Santa Fé, N. Mex | Nov. 20, 1871 | June 15, 1883 | 0.52 | 0.64 | 0.51 | 0.57 | 1.85 | 1.14 |
| Silver City, N. Mex | May 15, 1878 | Mar. 31, 1883 | 1.42 | 1.08 | 0.90 | 0.22 | 0.48 | 0.69 |

*Statement showing the mean monthly and mean annual precipitation in inches and hundredths, at the below-named stations of the Signal Service, &c.*—Continued.

| Stations. | Established. | Discontinued. | July. | August. | September. | October. | November. | December. | Annual. |
|---|---|---|---|---|---|---|---|---|---|
| Fort Gibson, Ind. T | Apr. 1, 1873 | April, 1882 | 3.88 | 2.37 | 2.84 | 2.80 | 2.83 | 2.46 | 37.93 |
| Fort Sill, Ind. T | June 23, 1875 | | 3.66 | 2.50 | 2.78 | 2.17 | 1.93 | 2.12 | 33.38 |
| Dodge City, Kans | Sept. 15, 1874 | | 3.06 | 3.30 | 1.16 | 1.33 | 0.64 | 0.68 | 20.09 |
| Leavenworth, Kans | May 21, 1871 | | 4.79 | 3.20 | 3.10 | 3.36 | 2.57 | 1.74 | 38.49 |
| Colorado Springs, Colo | Jan. —, 1874 | July, 1876 | 2.75 | 1.65 | 2.80 | 0.16 | 0.77 | 0.22 | 16.95 |
| Denver, Colo | Nov. 19, 1871 | | 1.89 | 1.54 | 0.96 | 0.79 | 0.72 | 0.71 | 14.98 |
| West Las Animas | Oct. 1, 1881 | | 1.18 | 1.27 | 0.68 | 0.47 | 0.11 | 0.88 | 11.12 |
| Fort Apacha, Ariz | Oct. 9, 1877 | | 5.13 | 4.89 | 1.82 | 1.85 | 1.00 | 1.71 | 22.75 |
| Phœnix, Ariz | May 9, 1877 | | 1.09 | 1.02 | 0.71 | 0.15 | 0.52 | 1.08 | 7.50 |
| Prescott, Ariz | Nov. 19, 1873 | | 2.22 | 3.49 | 1.28 | 0.50 | 0.54 | 1.77 | 14.51 |
| Tucson, Ariz | Dec. 1, 1875 | June 15, 1883 | 3.32 | 3.17 | 1.45 | 0.44 | 0.50 | 1.06 | 13.23 |
| Yuma, Ariz | Nov. 18, 1873 | | 0.22 | 0.25 | 0.09 | 0.04 | 0.03 | 0.31 | 2.04 |
| La Mesilla, N. Mex | June 16, 1876 | Aug. 6, 1882 | 2.21 | 1.16 | 0.86 | 0.87 | 0.41 | 0.75 | 9.38 |
| Santa Fé, N. Mex | Nov. 20, 1871 | June 15, 1883 | 3.41 | 3.01 | 1.25 | 1.02 | 0.91 | 0.65 | 13.89 |
| Silver City, N. Mex | May 15, 1878 | Mar. 31, 1883 | 3.96 | 5.95 | 2.24 | 1.19 | 1.40 | 0.75 | 20.19 |

SIGNAL OFFICE, WAR DEPARTMENT,
*Washington, June 5, 1884.*

WAR DEPARTMENT,
OFFICE OF THE CHIEF SIGNAL OFFICER,
*Washington City, May 29, 1884.*

SIR: Referring to your communication of the 27th instant, I have the honor to inclose herewith extract from the records of this office.

I am, very respectfully, your obedient servant,

W. B. HAZEN,
*Brig. and Bvt. Maj. Gen., Chief Signal officer, U. S. A.*

Mr. JOSEPH NIMMO, Jr.,
*Chief of Bureau of Statistics, Treasury Department.*

*nt showing the annual and mean annual precipitation at the below-named stations of gnal Service, United States Army, in Texas, compiled from the commencement of ations at each, from the records on file at the Office of the Chief Signal Officer of rmy.*

| Stations in Texas. | Precipitation (in inches and hundredths). | | | | | | |
|---|---|---|---|---|---|---|---|
| | 1872. | 1873. | 1874. | 1875. | 1876. | 1877. | 1878. |
| tville | | | | | | | 25.66 |
| ville | | | | | 25.81 | 25.86 | 36.35 |
| n City | | | | | | | 29.32 |
| Fort | | | | | | | 24.84 |
| ns | | | | 32.11 | 33.69 | 53.89 | 39.07 |
| Fort | | | | | | | |
| | | | | | 42.10 | 52.64 | 41.15 |
| Fort | | | | | | | |
| | | | | | | | |
| icksburg | | | | | | | 22.78 |
| ton | 41.72 | 58.91 | 49.39 | 58.48 | 50.92 | 66.87 | 60.90 |
| ola | | 43.30 | 44.51 | 35.39 | 32.57 | 42.67 | 39.74 |
| ett, Fort | | | | | | | 21.88 |
| ande City | | | | | | | 24.43 |
| ntonio | | | | | | | 39.60 |
| n, Fort | | | | | | | 12.47 |

*ent showing the annual and mean annual precipitation at the below-named stations of the Signal Service, &c.*—Continued.

| Stations in Texas. | Precipitation (in inches and hundredths). | | | | | |
|---|---|---|---|---|---|---|
| | 1879. | 1880. | 1881. | 1882. | 1883. | Mean annual. |
| ettville | 16.52 | 40.54 | 33.75 | 21.23 | (*) | 27.54 |
| nsville | 34.73 | 38.07 | 31.74 | 32.56 | 31.02 | 32.02 |
| an City | 17.99 | 35.83 | (†) | 35.60 | (*) | 29.68 |
| o, Fort | 18.54 | 37.95 | 18.96 | 42.12 | 32.64 | 29.18 |
| ana | 35.18 | 42.33 | (*) | | | 39.38 |
| , Fort | 21.41 | 23.48 | (†) | 20.22 | 14.22 | 19.83 |
| on | 20.45 | 46.31 | 36.98 | 50.44 | (*) | 41.44 |
| t, Fort | | 16.79 | 16.16 | 24.76 | 28.21 | 21.48 |
| so | 6.81 | 14.37 | 18.17 | 8.27 | 12.98 | 12.12 |
| ricksburg | 18.27 | 47.23 | 24.11 | 33.46 | (*) | 29.17 |
| ston | 26.93 | 50.97 | 53.28 | 57.68 | 31.11 | 51.43 |
| nola | 26.78 | 45.17 | 37.70 | 41.90 | 30.69 | 38.22 |
| avett, Fort | 16.65 | 28.61 | 21.72 | 29.03 | (*) | 23.58 |
| rande City | 25.61 | 22.31 | 28.13 | (†) | (†) | 25.12 |
| ntonio | 22.80 | 41.91 | 26.78 | 36.39 | (*) | 33.50 |
| ston, Fort | 5.12 | 33.40 | 12.65 | 25.56 | 27.39 | 19.43 |

* Station closed. † Record incomplete.

NAL OFFICE, WAR DEPARTMENT,
*Washington, May 29, 1884.*

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[Inclosure F.]

*tatement furnished by the United States Coast and Geodetic Survey in regard to distances.*

UNITED STATES COAST AND GEODETIC SURVEY OFFICE,
*Washington, June 4, 1884.*

SIR: Your letter of the 2d, asking for certain distances, was referred by me to the ydrographic inspector of the Coast and Geodetic Survey, Commander C. M. Chester, United States Navy.

In his absence I inclose a report from his assistant, Lieut. J. F. Moser, United States Navy, which contains the information desired.

Very respectfully,

C. O. BOUTELLE,
*Assistant United States Coast and Geodetic Survey, in charge of office.*

JOSEPH NIMMO, Jr.,
*Chief of Bureau of Statistics, Treasury Department.*

UNITED STATES COAST AND GEODETIC SURVEY OFFICE,
*Washington, June* 4, 1884.

DEAR SIR: Your letter of the 2d instant to the assistant in charge of the United States Coast and Geodetic Survey Office has been referred to this office. In reply I would say that the length of shore-line from Eastport, Me., to Cape Henry, Va., measured from headland to headland, as indicated on the chart sent, is 742 nautical miles.

The length of shore-line from Cape Henry, Va., to Cape Sable, Fla., is 1,073 nautical miles

The length of shore-line from Cape Sable, Fla., to Brownsville, Tex., is 1,415 nautical miles.

Shore-line from mouth of Mississippi River (South Pass) to mouth of Sabine River is 260 nautical miles.

Shore-line measured from mouth of Sabine River to Rio Grande entrance is 323 nautical miles.

From Galveston to New Orleans, via Port Eads, is 391½ nautical miles.

From New Orleans to New York, via Key West, is 1,790 nautical miles.

From Galveston to New York, via Key West, is 1,925 nautical miles.

From New Orleans to Liverpool, via Key West, is 4,766 nautical miles.

From Galveston to Liverpool, via Key West, is 4,966 nautical miles.

Very respectfully,

J. F. MOSER,
*Lieutenant and Acting Hydrographic Inspector, Coast Survey.*

JOSEPH NIMMO, Jr., Esq.,
*Chief of Bureau of Statistics, Treasury Department, Washington, D. C*

Forwarded June 4, 1884.

C. O. BOUTELLE,
*Assistant Coast and Geodetic Survey, in charge of office.*

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[Inclosure G.]

*Statement furnished by the Hydrographic Office of the Navy Department in regard to the depth of water at the entrance to the harbors of Mexico on the Gulf of Mexico.*

BUREAU OF NAVIGATION, NAVY DEPARTMENT,
*Washington, D. C., June* 4, 1884.

SIR: I have the honor to acknowledge the receipt of your letter of the 27th of May.

At Matamoras there is from 4 to 6 feet of water over the bar, and a rise and fall of 2 feet. Tampico, about 10 feet over bar, which is dangerous and shifting; 2 feet rise and fall of tide.

Vera Cruz, no bar; anchorage in 24 feet; 2 to 4 feet rise and fall. Vessels lie one-half mile from shore, and use lighters of 18 to 20 tons. Alvarado, 9 to 10 feet over the bar; 1½ to 2 feet rise and fall. Coatzacoalcos River, Minatitlan, 12 to 15 feet over the bar; 1 to 2 feet rise and fall.

This is all the information to be had on this subject at present. I shall take great pleasure in continuing the investigation if you desire.

Very respectfully,

GEO. W. PIGMAN,
*Lieutenant-Commander, U. S. N., Acting Hydrographer.*

Mr. JOSEPH NIMMO, Jr.,
*Chief of the Bureau of Statistics, Treasury Department.*

[Inclosure H.]

*Statement showing the number and value of cattle (not including milch cows) in the United States in 1884, by States and Territories, in order of magnitude of value.*

[From Agricultural Department Report No. 4, new series.]

| Order. | States and Territories. | Number. | Value. |
|---|---|---|---|
| 1 | Texas | 4,277,700 | $74,902,527 |
| 2 | Iowa | 1,955,810 | 50,851,060 |
| 3 | Illinois | 1,442,344 | 40,443,326 |
| 4 | Kansas | 1,395,200 | 7,837,824 |
| 5 | Nebraska | 1,368,509 | 36,183,140 |
| 6 | New York | 886,041 | 33,084,771 |
| 7 | Missouri | 1,335,082 | 30,199,555 |
| 8 | Ohio | 1,017,820 | 29,944,264 |
| 9 | Pennsylvania | 875,994 | 27,812,809 |
| 10 | Wyoming | 897,000 | 23,456,550 |
| 11 | Indiana | 851,355 | 22,858,882 |
| 12 | Colorado | 772,560 | 20,449,663 |
| 13 | Wisconsin | 682,743 | 18,208,756 |
| 14 | California | 609,500 | 17,766,925 |
| 15 | Montana | 672,600 | 17,595,216 |
| 16 | Oregon | 535,600 | 14,038,076 |
| 17 | New Mexico | 690,562 | 13,818,146 |
| 18 | Kentucky | 498,888 | 13,794,253 |
| 19 | Michigan | 491,792 | 13,765,258 |
| 20 | Minnesota | 427,084 | 10,916,267 |
| 21 | Virginia | 436,820 | 8,976,651 |
| 22 | Indian Territory | 520,000 | 8,840,000 |
| 23 | Tennessee | 463,084 | 7,802,246 |
| 24 | West Virginia | 289,519 | 7,400,106 |
| 25 | Dakota | 270,600 | 7,222,314 |
| 26 | Georgia | 616,811 | 7,177,029 |
| 27 | Vermont | 187,933 | 6,184,875 |
| 28 | Maine | 188,919 | 6,051,076 |
| 29 | Nevada | 218,360 | 5,928,474 |
| 30 | Arkansas | 420,876 | 5,749,166 |
| 31 | Washington | 230,376 | 5,722,540 |
| 32 | Alabama | 480,100 | 5,439,533 |
| 33 | Idaho | 204,750 | 5,323,500 |
| 34 | Florida | 560,000 | 5,140,800 |
| 35 | New Hampshire | 141,784 | 4,741,257 |
| 36 | North Carolina | 419,508 | 4,547,467 |
| 37 | Mississippi | 420,499 | 4,545,594 |
| 38 | Arizona | 203,000 | 4,060,000 |
| 39 | Connecticut | 11,440 | 3,966,997 |
| 40 | Maryland | 139,592 | 3,686,625 |
| 41 | Louisiana | 271,603 | 3,318,989 |
| 42 | Utah | 132,180 | 3,157,780 |
| 43 | New Jersey | 69,947 | 2,627,909 |
| 44 | South Carolina | 216,880 | 2,548,340 |
| 45 | Delaware | 26,525 | 863,123 |
| 46 | Rhode Island | 13,427 | 517,074 |
| | Total | 29,046,101 | 683,227,054 |

[Inclosure I.]

The following table, showing the number and value of sheep on farms in the United States, has been compiled from a table presented in Special Report No. 4, new series, Department of Agriculture:

*Table showing the estimated number and value of sheep on farms in the several States and Territories in the United States, January, 1884, stated in the order of magnitude of value.*

[From Special Report No. 4, new series, Department of Agriculture.]

| Order. | States and Territories. | Number. | Value. |
|---|---|---|---|
| 1 | Texas | 7,957,275 | $17,822,056 |
| 2 | Ohio | 5,000,036 | 14,650,105 |
| 3 | California | 6,203,064 | 11,785,822 |
| 4 | New Mexico | 4,435,200 | 7,539,840 |
| 5 | Michigan | 2,412,422 | 7,261,390 |
| 6 | New York | 1,732,332 | 6,323,012 |
| 7 | Pennsylvania | 1,749,236 | 5,580,063 |

*Table showing the estimated number and value of sheep on farms in the several States and Territories of the United States, &c.*—Continued.

| Order. | States and Territories. | Number. | Value. |
|---|---|---|---|
| 8 | Oregon | 2,571,378 | $4,654,194 |
| 9 | Indiana | 1,145,084 | 3,217,686 |
| 10 | Wisconsin | 1,336,403 | 3,180,639 |
| 11 | Illinois | 1,126,908 | 3,008,844 |
| 12 | Missouri | 1,439,380 | 2,878,760 |
| 13 | Colorado | 1,248,360 | 2,696,458 |
| 14 | Kentucky | 980,166 | 2,577,837 |
| 15 | Vermont | 448,712 | 2,032,665 |
| 16 | Kansas | 821,709 | 1,889,931 |
| 17 | West Virginia | 671,226 | 1,751,900 |
| 18 | Maine | 577,236 | 1,627,806 |
| 19 | Arizona | 812,700 | 1,625,400 |
| 20 | Iowa | 497,161 | 1,382,108 |
| 21 | Montana | 465,750 | 1,350,675 |
| 22 | Wyoming | 598,000 | 1,303,640 |
| 23 | Utah | 564,300 | 1,297,890 |
| 24 | Virginia | 487,194 | 1,256,961 |
| 25 | Tennessee | 655,214 | 1,172,833 |
| 26 | Washington | 456,300 | 1,090,557 |
| 27 | Georgia | 543,415 | 815,122 |
| 28 | Nevada | 885,350 | 793,821 |
| 29 | Minnesota | 275,463 | 732,732 |
| 30 | Nebraska | 333,834 | 727,758 |
| 31 | New Hampshire | 209,686 | 629,058 |
| 32 | North Carolina | 452,176 | 624,003 |
| 33 | Maryland | 172,022 | 572,833 |
| 34 | Alabama | 343,925 | 512,448 |
| 35 | New Jersey | 117,008 | 505,475 |
| 36 | Dakota | 182,000 | 493,220 |
| 37 | Idaho | 187,500 | 468,750 |
| 38 | Mississippi | 293,477 | 460,759 |
| 39 | Arkansas | 227,293 | 370,488 |
| 40 | Massachusetts | 69,346 | 277,384 |
| 41 | Connecticut | 58,831 | 226,499 |
| 42 | Louisiana | 124,984 | 208,723 |
| 43 | South Carolina | 116,476 | 194,515 |
| 44 | Florida | 98,940 | 173,145 |
| 45 | Rhode Island | 21,077 | 85,151 |
| 46 | Delaware | 22,077 | 71,750 |
| | Total | 50,626,626 | 119,902,706 |

[Inclosure J.]

*Cotton crop of the United States by States.*

[1850-1880, Census Report of 1880; 1882 and 1883, Agricultural Report, 1883.]

| States. | 1849. | 1859. | 1869. | 1879. | 1882. | 1883.* |
|---|---|---|---|---|---|---|
| | *Bales.* | *Bales.* | *Bales.* | *Bales.* | *Bales.* | *Bales.* |
| Alabama | 564,429 | 489,955 | 429,482 | 699,654 | 810,000 | 680,400 |
| Arkansas | 65,344 | 367,393 | 247,968 | 608,256 | 697,000 | 578,510 |
| California | | | 34 | | | |
| Florida | 45,131 | 65,153 | 39,789 | 54,997 | 62,000 | 58,900 |
| Georgia | 499,091 | 701,840 | 473,934 | 814,441 | 942,900 | 772,440 |
| Illinois | | 1,482 | 465 | | | |
| Indiana | 14 | | 3 | | | |
| Kansas | | 61 | 7 | | | |
| Kentucky | 758 | | 1,080 | 1,367 | | |
| Louisiana | 178,737 | 777,738 | 350,832 | 508,569 | 560,000 | 515,200 |
| Mississippi | 484,292 | 1,202,507 | 564,938 | 963,111 | 1,064,000 | 936,320 |
| Missouri | | 41,188 | 1,246 | 20,318 | †42,000 | †35,700 |
| Nevada | | | 106 | | | |
| New Mexico | | 19 | | | | |
| North Carolina | 73,845 | 145,514 | 144,935 | 389,598 | 463,000 | 402,810 |
| South Carolina | 300,901 | 353,412 | 2[illegible],500 | 522,548 | 630,000 | 478,800 |
| Tennessee | 194,532 | 296,464 | 181,842 | 330,621 | 337,000 | 343,740 |
| Texas | 58,072 | 431,463 | 350,628 | 805,284 | 1,326,000 | 1,193,400 |
| Utah | | 136 | 22 | | | |
| Virginia | 3,947 | 12,727 | 183 | 19,595 | 24,000 | 18,000 |
| West Virginia | | | 2 | | | |
| Total | 2,469,093 | 5,387,052 | 3,011,996 | ‡5,755,359 | 6,957,000 | 6,014,220 |

* Crop as indicated by December crop returns.
† Including Indian Territory.
‡ Including 17,000 bales produced in Indian Territory.

[Inclosure K.]

*Product of cereals in Texas in* 1882 *and* 1883.

| Cereals. | 1882. | 1883. |
|---|---|---|
| | *Bushels.* | *Bushels.* |
| Corn | 63, 416, 300 | 63, 146, 300 |
| Wheat | 4, 173, 700 | 4, 301, 000 |
| Rye | 60, 900 | 57, 855 |
| Oats | 9, 988, 800 | 9, 489, 300 |
| Barley | 118, 720 | 127, 030 |

There is usually no surplus of any of the cereals in Texas. The supply of corn last year was about 35 bushels per capita, which was average supply of the United States per capita in the census years. The wheat supply was only about 2¼ bushels, which is less than the consumption of the State.

The only cotton State which ever has an appreciable surplus of corn is Tennessee, and that is but a small and unreliable quantity.

J. R. DODGE,
*Statistician.*

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[Inclosure L.]

*Statement showing, in order of magnitude, the number of miles of railroad in each State and Territory of the United States in* 1884.

[From the Houston Daily Post, May 21, 1884.]

| Order. | States and Territories. | Railroad mileage. | Order. | States and Territories. | Railroad mileage. |
|---|---|---|---|---|---|
| | | *Miles.* | | | *Miles.* |
| 1 | Illinois | 8, 927 | 26 | Mississippi | 1, 671 |
| 2 | New York | 7, 436 | 27 | South Carolina | 1, 558 |
| 3 | Ohio | 7, 280 | 28 | Louisiana | 1, 270 |
| 4 | Pennsylvania | 7, 221 | 29 | Florida | 1, 218 |
| 5 | Iowa | 7, 199 | 30 | New Mexico | 1, 157 |
| 6 | Texas | 6, 166 | 31 | Utah | 1, 127 |
| 7 | Indiana | 5, 198 | 32 | Maine | 1, 097 |
| 8 | Michigan | 5, 075 | 33 | Montana | 1, 072 |
| 9 | Missouri | 4, 606 | 34 | Maryland | 1, 068 |
| 10 | Minnesota | 4, 142 | 35 | New Hampshire | 1, 038 |
| 11 | Wisconsin | 4, 043 | 36 | Oregon | 1, 003 |
| 12 | Georgia | 2, 940 | 37 | Connecticut | 965 |
| 13 | California | 2, 894 | 38 | Nevada | 948 |
| 14 | Colorado | 2, 861 | 39 | Vermont | 942 |
| 15 | Nebraska | 2, 693 | 40 | West Virginia | 940 |
| 16 | Dakota | 2, 544 | 41 | Arizona | 921 |
| 17 | Virginia | 2, 584 | 42 | Idaho | 754 |
| 18 | Kansas | 2, 409 | 43 | Wyoming | 613 |
| 19 | Tennessee | 2, 107 | 44 | Washington Territory | 595 |
| 20 | Alabama | 2, 090 | 45 | Indian Territory | 362 |
| 21 | Massachusetts | 1, 985 | 46 | Delaware | 282 |
| 22 | Kentucky | 1, 935 | 47 | Rhode Island | 212 |
| 23 | New Jersey | 1, 878 | | | |
| 24 | North Carolina | 1, 811 | | Total miles in United States | 0, 434 |
| 25 | Arkansas | 1, 732 | | | |

[Inclosure M.]

*Exports of cotton from the United States, by ports, during the five years from* 1879 *to* 1883, *inclusive, in the order of magnitude during the year* 1883.

| Order. | Ports. | 1879. | 1880. | 1881. | 1882. | 1883. |
|---|---|---|---|---|---|---|
| | | *Bales.* | *Bales.* | *Bales.* | *Bales.* | *Bales.* |
| 1 | New Orleans, La | 1, 249, 769 | 1, 396, 680 | 1, 616, 067 | 1, 227, 963 | 1, 495, 099 |
| 2 | New York, N. Y | 349, 465 | 642, 612 | 594, 249 | 612, 670 | 739, 437 |
| 3 | Galveston, Tex | 347, 655 | 294, 074 | 469, 894 | 279, 356 | 516, 993 |
| 4 | Savannah, Ga | 461, 563 | 424 645 | 503, 570 | 340, 642 | 419, 006 |
| 5 | Charleston, S. C | 375, 465 | 314, 499 | 439, 086 | 306, 351 | 372, 902 |
| 6 | Norfolk and Portsmouth, Va | 203, 536 | 253, 955 | 330, 122 | 325, 532 | 370, 221 |
| 7 | Baltimore, Md | 96, 505 | 116, 454 | 155, 374 | 164, 832 | 248, 163 |
| 8 | Boston and Charlestown, Mass | 118, 953 | 123, 543 | 123, 399 | 179, 910 | 186, 164 |
| 9 | Philadelphia, Pa | 26, 436 | 35, 021 | 66, 734 | 88, 162 | 104, 570 |
| 10 | Wilmington, N. C | 64, 431 | 36, 586 | 69, 810 | 63, 833 | 55, 579 |
| 11 | Mobile, Ala | 123, 214 | 113, 674 | 112, 669 | 49, 880 | 45, 270 |
| 12 | Richmond, Va | ..... | 1, 470 | ..... | ..... | 32, 607 |
| 13 | Huron, Mich | 12, 417 | 15, 660 | 19, 383 | 26, 708 | 27, 256 |
| 14 | Corpus Christi, Tex | 1, 361 | 1, 346 | 1, 011 | 833 | 4, 993 |
| 15 | Detroit, Mich | 2, 418 | 4, 425 | 5, 096 | 6, 791 | 4, 880 |
| 16 | Beaufort, S. C | 8, 129 | 28, 567 | 37, 480 | 13, 758 | 3, 318 |
| 17 | Vermont, Vt | 135 | 250 | 1, 589 | 2, 223 | 979 |
| 18 | San Francisco, Cal | 9 | 1 | ..... | ..... | 137 |
| 19 | Fernandina, Fla | 246 | 582 | 725 | 806 | 128 |
| 20 | Pensacola, Fla | 16, 814 | ..... | 100 | 3, 900 | 100 |
| 21 | Brazos de Santiago, Tex | 50 | 61 | ..... | ..... | 2 |
| 22 | Brunswick, Ga | ..... | ..... | ..... | 148 | 2 |
| 23 | New Bedford, Mass | ..... | ..... | ..... | 1 | 2 |
| | Passamaquoddy, Me | 1, 003 | ..... | ..... | ..... | ..... |
| | Saluria, Tex | 3, 167 | 4, 419 | 1, 703 | 407 | ..... |
| | Portland and Falmouth, Me | ..... | 1, 628 | ..... | ..... | ..... |
| | Wiscasset, Me | ..... | 1 | ..... | ..... | ..... |
| | Oswegatchie, N. Y | ..... | ..... | 100 | ..... | ..... |
| | Teche, La | ..... | ..... | 1, 582 | ..... | ..... |
| | Total | 3, 462, 741 | 3, 810, 153 | 4, 549, 743 | 3, 694, 706 | 4, 626, 808 |

[Inclosure N.]

*Statement showing the number and tonnage of vessels in the foreign trade which entered at and cleared from the customs district of Galveston, Tex., during each of the years* 1860, 1870, 1880, 1881, 1882, *and* 1883.

| Year ended June 30— | Entered. | | Cleared. | |
|---|---|---|---|---|
| | No. | Tons. | No. | Tons. |
| 1860 | 70 | 32, 263 | 100 | 47, 755 |
| 1870 | 70 | 31, 555 | 107 | 52, 701 |
| 1880 | 195 | 117, 972 | 173 | 99, 007 |
| 1881 | 278 | 215, 311 | 262 | 183, 349 |
| 1882 | 216 | 141, 743 | 185 | 115, 579 |
| 1883 | 257 | 153, 614 | 265 | 166, 459 |

[Inclosure O.]

*Statement showing the distances apart, by rail, of various cities in the United States.*

[From the official table of distances for 1884, published by the War Department.]

| Cities. | Distance. | Cities. | Distance. |
|---|---|---|---|
| | *Miles.* | | *Miles.* |
| Boston to New York via Springfield and Hartford | 237 | Cincinnati to Saint Louis | 341 |
| New York to Philadelphia | 91 | Saint Louis to Chicago | 283 |
| Philadelphia to Baltimore | 97 | Saint Louis to Kansas City | 277 |
| Baltimore to Pittsburgh | 333 | Chicago to Milwaukee | 85 |
| Pittsburgh to Cleveland | 140 | Milwaukee to Minneapolis | 334 |
| Pittsburgh to Cincinnati | 313 | Saint Louis to New Orleans | 700 |
| Cincinnati to Louisville | 110 | New Orleans to Galveston | 411 |
| Cincinnati to Chicago | 294 | Saint Louis to Galveston | 869 |

[Inclosure P.]

*ment furnished by the collector of customs at Galveston, Tex., in regard to the tonnage of steamers trading at that port.*

CUSTOM-HOUSE, COLLECTOR'S OFFICE,
*Galveston, Tex., June* 6, 1884.

IR: In reply to your telegram of the 3d instant I have to state that there are two ular lines of steamers, viz:
Mallory Line, of New York, employ 7 steamers between Galveston and New York ring the year 1883. making 77 trips, aggregate tonnage being 18,688.
Morgan's Line, of New Orleans, employ 9 steamers in the Gulf trade, of an aggre- te tonnage of 5,982, and 3 in New York trade; tonnage, 3,864.
I inclose details of names, tonnage, &c.
Regarding foreign lines, the West Indian and Pacific Steamship Company, and er lines unknown, British owners, traded in 1883 as follows:

| Destination. | Steamers. | Tonnage. |
|---|---|---|
| rpool | 34 | 44,296 |
| men | 11 | 12,170 |
| re | 5 | 4,745 |
| el | 5 | 5,935 |
| ss | 1 | 851 |

rth German Lloyds, German owners, 3 steamers, 5,890 tons, to Bremen.
rivals and departures of foreign steamers are irregular.
Very respectfully,

A. G. MALLOY,
*Collector,*
By THEO. HITCHCOX,
*Special Deputy Collector.*

. JOS. NIMMO, Jr.,
*Chief of Bureau of Statistics, Washington, D. C.*

ew & Sons, steamerand ship agents. Cable address: Walthew, Galveston, Scott's, Watkin's, Vaughan's, and our own private code.]

GALVESTON, TEX., *June* 4, 1884.

: In reply to your inquiry regarding steamers loaded by our firm at this port ; the season 1883–'84, the following is a complete list, showing tonnage, number s, and draught of water when loaded:

| Name. | Net tonnage. | Bales. | Draught. |
|---|---|---|---|
| | | | *Feet.* |
| ian | 1,690 | 5,939 | 20 |
| | 1,367 | 4,732 | 18 |
| s | 764 | 2,278 | 16 |
| | 1,490 | 4,860 | 19 |
| gate | 1,179 | 4,509 | 16 |
| | 1,150 | 4,362 | 16 |
| Roberts | 936 | 3,997 | 15 |
| | 1,066 | 4,130 | 15 |
| al | 1,167 | 4,600 | 15 |
| Hall | 1,740 | 7,605 | 21 |

also beg to hand you the following list of the West India and Pacific Steam- ompany's steamers, for which we are the agents at this port, and which call for ard cargo for Liverpool. After discharging at South American and Mexican

ports, the Australian, Chilian, Haytian, and Bernard Hall loaded here last season. The following list comprises all their steamers in the Gulf trade, viz:

| Name. | Tonnage, gross. | Name. | Tonnage, gross. |
|---|---|---|---|
| Andean | 2,147 | Haytian | 2,336 |
| American | 1,838 | Jamaican | 2,009 |
| Australian | 2,498 | Texan | 3,257 |
| Bernard Hall | 2,678 | Venezuelan | 1,690 |
| Californian | 1,831 | West Indian | 1,804 |
| Caribbean | 1,852 | Yucatan | 2,816 |
| Chilian | 2,118 | Florida | 3,270 |
| Cuban | 1,324 | | |

All the above steamers draw from 16 to 18 feet in ballast, and from 18 to 22 cotton-loaded. We may add that they always lighter all their cargoes at this port. Any further information you may require we shall be glad to furnish you with.

I remain, sir, yours, obediently,

WALTHEW & SONS.

A. G. MALLOY, Esq.,
*Collector, Galveston.*

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[Inclosure Q.]

*Statement showing the imports of merchandise into and the exports of merchandise from Galveston, Texas, during each of the fiscal years* 1860, 1870, 1880, 1881, 1882, *and* 1883; *also the imports into and exports from the same district, by principal and all other articles, for the fiscal year* 1883.

| Years. | Imports. | Domestic exports. | Foreign exports. |
|---|---|---|---|
| 1860 | $533,153 | $5,772,158 | ..... |
| 1870 | 509,231 | 14,869,601 | $4,131 |
| 1880 | 1,094,514 | 16,712,861 | 37,028 |
| 1881 | 3,101,324 | 26,685,248 | 81,859 |
| 1882 | 3,022,274 | 15,515,094 | 8,294 |
| 1883 | 1,511,712 | 29,627,898 | 1,149 |

IMPORTS BY ARTICLES, 1883.

| Articles. | | Quantities. | Values. |
|---|---|---|---|
| Coffee | pounds | 9,262,555 | $732,233 |
| Railroad bars, iron | do | 5,557,945 | 77,974 |
| Railroad bars, steel | do | 11,206,810 | 167,161 |
| All other manufactures of iron and steel | | ..... | 231,260 |
| Coal, bituminous | tons | 33,486 | 76,002 |
| Articles, the produce of the United States, brought back | | ..... | 40,755 |
| Salt | pounds | 16,725,636 | 31,669 |
| Wine, spirits, and cordials | | ..... | 15,830 |
| Beer, ale, and porter | gallons | 18,066 | 14,369 |
| Earthen and stone ware | | ..... | 14,102 |
| Fruits of all kinds, including nuts | | ..... | 12,439 |
| All other articles | | ..... | 97,927 |
| Total | | ..... | 1,511,712 |

*Statement showing the amount of exports of merchandise from and imports into the port of Galveston, Texas*—Continued.

DOMESTIC EXPORTS BY ARTICLES, 1883.

| Articles. | | Quantities. | Values. |
|---|---|---|---|
| Cotton | bales | 516,093 | $29,023,678 |
| | pounds | 268,276,602 | |
| Oil-cake and oil-cake meal | do | 56,921,742 | 516,857 |
| Animals, living | | | 16,645 |
| Wood, and manufactures of | | | 11,446 |
| All other articles | | | 59,277 |
| Total domestic exports | | | 29,627,898 |
| Foreign exports | | | 1,149 |
| Total domestic and foreign exports | | | 29,629,047 |

TREASURY DEPARTMENT, BUREAU OF STATISTICS, *May* 26, 1884.

[Inclosure R.]

*Value of the imports and exports of merchandise into and from the United States, by customs districts, during the year ended June* 30, 1882.

| Order. | Customs districts. | Exports. Domestic. | Exports. Foreign. | Exports. Total. | Imports. | Total imports and exports. | Per cent. of total. |
|---|---|---|---|---|---|---|---|
| | | *Dollars.* | *Dollars.* | *Dollars.* | *Dollars.* | *Dollars.* | |
| 1 | New York, N. Y. | 347,308,334 | 14,117,027 | 361,425,361 | 496,005,276 | 857,430,637 | 55.43 |
| 2 | Boston and Charlestown, Mass. | 61,273,101 | 1,083,648 | 62,356,749 | 42,552,075 | 137,908,824 | 8.72 |
| 3 | New Orleans, La | 94,838,634 | 268,680 | 95,107,314 | 9,596,762 | 104,704,076 | 6.77 |
| 4 | San Francisco, Cal | 44,139,303 | 820,117 | 44,959,420 | 45,702,530 | 90,661,950 | 5.86 |
| 5 | Philadelphia, Pa | 38,132,145 | 15,599 | 38,147,744 | 33,738,556 | 71,886,300 | 4.65 |
| 6 | Baltimore, Md | 54,956,050 | 47,301 | 55,003,351 | 14,599,179 | 69,602,530 | 4.50 |
| 7 | Galveston, Tex | 29,627,898 | 1,149 | 29,629,047 | 1,511,712 | 31,140,759 | 2.01 |
| 8 | Savannah, Ga | 22,813,347 | ..... | 22,813,347 | 483,281 | 23,296,628 | 1.50 |
| 9 | Charleston, S. C | 22,573,167 | 60 | 29,573,227 | 498,821 | 23,072,118 | 1.49 |
| 10 | Norfolk and Portsmouth, Va. | 18,445,548 | ..... | 18,445,548 | 186,355 | 18,631,903 | 1.29 |
| 11 | Huron, Mich | 10,134,522 | 814,068 | 10,948,590 | 2,906,247 | 13,854,837 | .90 |
| 12 | Oswego, N. Y | 1,453,346 | 11,824 | 1,465,170 | 8,341,324 | 9,806,494 | .63 |
| 13 | Minnesota, Minn | 7,147,017 | 22,168 | 7,169,185 | 1,085,213 | 8,254,398 | .53 |
| 14 | Vermont, Vt | 1,809,521 | ..... | 1,809,521 | 6,194,886 | 8,004,407 | .51 |
| 15 | Buffalo Creek, N. Y | 420,815 | 3,369 | 424,184 | 5,358,215 | 5,782,399 | .37 |
| 16 | Portland and Falmouth, Me. | 2,874,557 | 229,605 | 3,104,162 | 2,486,359 | 5,590,521 | .33 |
| 17 | Champlain, N. Y | 1,901,819 | 5,400 | 1,907,219 | 3,124,968 | 5,032,187 | .33 |
| 18 | Wilmington, N. C | 4,711,923 | ..... | 4,711,923 | 247,910 | 3,959,833 | .32 |
| 19 | Detroit, Mich | 2,647,379 | 173,583 | 2,820,962 | 2,056,979 | 4,877,941 | .31 |
| 20 | Chicago, Ill | 3,714,805 | 8,743 | 3,723,548 | 649,090 | 4,372,638 | .28 |
| 21 | Willamette, Oreg | 3,655,133 | ..... | 3,655,133 | 433,130 | 4,088,263 | .26 |
| 22 | Richmond, Va | 3,028,105 | ..... | 3,028,105 | 442,364 | 3,470,469 | .22 |
| 23 | Niagara, N. Y | 41,539 | ..... | 41,539 | 3,270,671 | 3,312,210 | .21 |
| 24 | Mobile, Ala | 2,837,496 | ..... | 2,837,496 | 374,892 | 3,212,388 | .21 |
| 25 | Miami, Ohio | 3,014,123 | ..... | 3,014,123 | 4,578 | 3,018,701 | .20 |
| 26 | Oregon, Oreg | 2,709,404 | ..... | 2,709,404 | 269,512 | 2,978,916 | .19 |
| 27 | Oswegatchie, N. Y | 849,774 | 1,442 | 851,216 | 2,044,525 | 2,895,741 | .19 |
| 28 | Corpus Christi, Tex | 1,798,981 | 200,428 | 1,999,409 | 711,787 | 2,711,196 | .18 |
| 29 | Brazos de Santiago, Tex | 1,102,861 | 286,204 | 1,389,065 | 801,447 | 2,190,512 | .14 |
| 30 | Pensacola, Fla | 2,067,057 | ..... | 2,067,057 | 29,073 | 2,096,130 | .14 |
| 31 | Puget Sound, Wash | 1,770,219 | ..... | 1,770,219 | 95,441 | 1,865,660 | .12 |
| 32 | Brunswick, Ga | 1,553,447 | ..... | 1,553,447 | 4,896 | 1,558,343 | .10 |
| 33 | Yorktown, Va | 1,509,689 | ..... | 1,509,689 | 18,255 | 1,527,944 | .10 |
| 34 | Paso del Norte, Tex. and N. Mex. | ..... | 1,162,851 | 1,162,851 | 325,950 | 1,488,801 | .09 |
| 35 | Passamaquoddy, Me | 447,229 | 76 | 447,305 | 872,305 | 1,319,610 | .09 |
| 36 | New Haven, Conn | 257,352 | 11,705 | 269,057 | 1,049,008 | 1,318,065 | .09 |
| 37 | Key West, Fla | 697,898 | 3,169 | 701,067 | 472,784 | 1,173,851 | .08 |
| 38 | Genesee, N. Y | 304,485 | ..... | 304,485 | 739,001 | 1,043,486 | .07 |
| 39 | Saluria, Tex | 871,068 | 13,309 | 884,377 | 100,084 | 984,461 | .06 |
| 40 | Cape Vincent, N. Y | 180,961 | 133,818 | 314,779 | 640,826 | 955,605 | .06 |
| 41 | Beaufort, S. C | 770,996 | ..... | 770,996 | 8,765 | 779,761 | .05 |
| 42 | Bangor, Me | 116,106 | ..... | 116,106 | 563,444 | 679,550 | .04 |
| 43 | Duluth, Minn | 399,237 | 169,686 | 568,923 | 43,068 | 611,991 | .04 |
| | All other ports | 3,317,241 | 10,741 | 3,327,982 | 2,539,300 | 5,867,282 | .38 |
| | Total | 804,223,632 | 19,615,770 | 823,839,402 | 723,180,914 | 1,547,020,316 | 100.00 |

[Inclosure S.]

*Statement showing, in the order of magnitude of total tonnage, the number and ton sailing and of steam vessels entered at the several sea-ports of the United States du fiscal year ended June 30, 1883.*

| Ports. | Sail. | | Steam. | | Tota | |
|---|---|---|---|---|---|---|
| | No. | Tons. | No. | Tons. | No | |
| New York | 4,332 | 2,090,991 | 1,920 | 4,357,846 | 6,252 | 6 |
| Boston | 2,413 | 469,325 | 531 | 875,190 | 2,944 | 1 |
| Baltimore | 538 | 264,696 | 369 | 629,078 | 907 | |
| San Francisco | 577 | 533,084 | 225 | 354,714 | 802 | |
| Philadelphia | 870 | 463,677 | 215 | 393,615 | 1,085 | |
| New Orleans | 359 | 171,147 | 500 | 563,644 | 859 | |
| Puget Sound | 156 | 82,806 | 356 | 172,165 | 512 | |
| Pensacola | 393 | 240,516 | 1 | 201 | 394 | |
| Passamaquoddy | 269 | 14,154 | 204 | 185,644 | 473 | |
| Portland and Falmouth | 311 | 63,672 | 74 | 117,141 | 375 | |
| Galveston | 193 | 84,758 | 64 | 68,856 | 257 | |
| Savannah | 232 | 115,869 | 20 | 24,340 | 252 | |
| All other ports | 2,823 | 819,097 | 230 | 204,631 | 3,063 | 1 |
| Total | 13,466 | 5,413,792 | 4,709 | 7,947,065 | 18,175 | 13 |

[Inclosure T.]

OFFICE OF THE CHIEF OF ENGINEERS,
UNITED STATES ARMY
*Washington, D. C., June* 19,

SIR: Referring to your letter of yesterday's date, I have to furnish for you mation the following copy of a telegram just received from Maj. S. M. Ma Corps of Engineers, dated 18th instant:

"Depth of water on outer bar, Galveston, was 13 feet at mean low tide a feet at mean high tide by last actual survey, January 9, 1884."

Very respectfully, you obedient servant,

JOHN NEWTON
*Chief of Engineers, Brig. and Bvt. Maj.*

MR. JOSEPH NIMMO, JR.,
*Chief Bureau of Statistics,*
*Treasury Department.*

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APPENDIX B.

## IMPROVEMENT OF GALVESTON HARBOR.

ARGUMENT OF MR. EADS BEFORE THE SENATE COMMITTEE ON COMMERCE, AND 22, 1884.

MR. CHAIRMAN AND GENTLEMEN OF THE COMMITTEE: Several months ag in London, I received a communication from the mayor and council and a ver number of the most prominent citizens of Galveston asking my opinion as to w deep water could be secured there, what it would cost, and whether I would l ing to undertake the work. A number of times within the last few years I ha urged by prominent persons in Galveston to express my opinion as to the p success or failure of the plans upon which the Government engineers are seel improve this harbor, but in every instance I declined to express my opinion subject. When, however, I received the communication to which I have re felt that it was my duty to speak frankly, which I did in a letter since publi this country, and which, perhaps, some of the members of the committee ma seen. In it I emphatically declared—

1st. That deep water could not be secured under the present plans of the States engineer officers;

2d. That I was sure I would be able, by works properly located and constru secure a navigable channel through the outer and inner bars, 30 feet in dept

3d. That I would be willing to undertake the work upon terms then stated, the total price to be $7,750,000, payable in installments as various depths were secured. The payment of money by the Government to be in every case dependent upon channel depths obtained, and no money to be paid unless I fully complied with all obligations assumed by me.

My appearance here is at the urgent solicitation of the people of Galveston and that of the united Texas Congressional delegation, and I come the more willingly because I feel it due to myself that I should answer certain very unfair criticisms of my proposition made by General Newton, Chief of Engineers, and Major Mansfield, the United States engineer officer in charge of the work, in their recent official reports upon the pending bill. I think I will be able to show you—

1st. That any appropriations to carry out the present plans will simply involve a waste of that much public money, because those plans are radically defective and never will accomplish the purposes designed; and

2d. That by proper plans deep water can be secured. I have no hesitation in declaring that I can, beyond all doubt, and within a comparatively short time, give to Galveston as good, if not a better, channel than that through the jetties at the mouth of the Mississippi.

An examination of the reports of the Chief of Engineers from 1874 to the present date shows, so far as I am able to discover, that no change has been authorized in the plans submitted by Major Howell ten years ago for the improvement of Galveston Harbor, except in so far as relates to the method of constructing the works.

In submitting the survey and plan, Major Howell says: "The object of the survey, as stated in your letter of instructions, was to determine and estimate the cost of some plan calculated to give an 18-foot entrance to Galveston Harbor." This plan was referred to a Board of Engineers composed of General Tower, General Wright, late Chief of Engineers, and General Newton, the present Chief of the Corps. General Humphreys, in his report (Report of Secretary of War, vol. 2, part 1, 1874), under the heading of "The Improvement of Galveston Harbor," says: "Captain Howell submitted a report upon the results of the survey he had been directed to make for the purpose of determining and estimating the cost of some plan of improvement calculated to give an 18-foot entrance to this harbor."

I desire to call attention to the fact that only an 18-foot entrance was contemplated by Major Howell's plan, and that no alteration has since been announced by which it can be claimed that it will produce a greater depth. General Newton says in his recent report upon Senate bill 1652, embodying my proposition: "The mode of improvement at Galveston has been reported upon by Boards of Engineers in 1874, 1875, 1876, and 1880. Two jetties on the south and north were recommended as necessary, and this view has since been held without a change in this office."

I am further justified in declaring that the present plan of improvement does not contemplate securing a channel of more than 18 feet from the following statement in General Newton's recent report on this bill, when taken in connection with the reports of the various Boards of Engineers to which he refers. General Newton says:

"The north and south jetties, placed according to the official plan, can, by an extension into deep water, and by the construction of auxiliary works, if needed, be made to develop all the depth of channel which the nature of the locality will admit."

In the face of the fact that these several Boards have reported upon this plan without altering it or recommending an alteration by which a greater depth than 18 feet is to be secured, Colonel Mansfield has not hesitated to make the following statement in a report which he has submitted upon Senate bill 1652, which provides for a depth of 30 feet. He says:

"The Government is to commit itself to the payment of $7,750,000 during the next sixteen years for about what the Government can secure by continuing the present work during the next two years for $750,000."

General Newton, in his report upon the bill, likewise makes the following inaccurate statement:

"The case can be plainly stated as follows: Colonel Mansfield, with the expenditure of $750,000 and two seasons' work, will obtain an increase of depth exceeding 2 feet, and probably reaching 5 or 6 feet, while Mr. Eads and associates promise, after a period of two years and eight months after the passage of the bill, to gain 2 feet of depth for an expenditure upon the part of the Government of $2,000,000."

He says "*after* a period of two years and eight months," which is precisely the reverse of what the bill declares. Instead of the word "*after*," the bill declares that I must secure at least 2 feet *before* two years and eight months, under penalty of forfeiting the privileges, &c., set forth in it.

The Mississippi jetty bill contained a similar clause, with the same time for a forfeiture of the grant, but in one year from the date of the approval of the act the Mattie Atwood, drawing 13 feet of water, passed out through the uncompleted works, and although we had, as in the present bill, eight months in which to begin

the works and two years thereafter in which to accomplish specified results, we commenced them in about three months and deepened the water 5 feet in nine months, and in two years and eight months after the approval of the law we had secured a 22-foot channel, having deepened the bar 14 feet.

It is important, when comparing the estimate of cost for the completion of the works on the present plan with those which I propose, to bear in mind that the former plan only contemplates a depth of 18 feet at mean low tide, while my proposition is to secure at least 30 feet at mean high tide, or 11 feet greater depth.

At the time Major Howell's plan was approved by the Board referred to, General Humphreys, then Chief of Engineers, General Wright, the last Chief of Engineers, and General Newton, the present Chief of Engineers, and Major Howell were the most prominent and outspoken opposers of the application of the jetty system at the mouth of the Mississippi River. The Galveston plan, and the reports of the Boards on it, and the arguments advanced by its members at that time and subsequently, all bear testimony to the fact that these gentlemen entertained views directly contrary to the theories on which I based my expectations of success at the mouth of the Mississippi.

The late Chief of Engineers (General Wright) was the president of the civil and military commission of engineers to which was referred the question of applying jetties at the mouth of the Mississippi. He reported adversely to the jetties and in favor of the Fort Saint Philip Canal. Later on I shall have occasion to quote from the official reports of Generals Humphreys and Newton and Major Howell regarding their ideas of the jetty system.

To enable the committee to form an intelligent judgment upon the merits of the Galveston plan, and to forecast the probable results which will attend its completion, it will be important to refer to the general principles or natural laws which control the action of flowing water and its power to transport sand and other sedimentary matter, so far as these laws are involved in the jetty system. To enable the committee also to fully comprehend the reasons which actuated these officers in recommending the Galveston plan, it will be necessary to quote from their official reports some of the ideas which they then entertained, so that the committee may see how completely their plan harmonizes with the errors which possessed their minds at that time.

If the natural laws referred to are clearly understood by the committee, it will have no difficulty in arriving at a correct judgment in the premises The jetty system is a method of deepening and maintaining a channel across a shoal by such artificial works as shall compel the water flowing over the shoal to pass through a narrow channel The principles involved in the system may be thus stated in brief:

1st. The current is caused by the fall of the water from a higher to a lower level, which fall is indicated by the slope or inclination of the surface of the water.

2d. The friction of the bed over which the water flows is the chief element or force opposed to the current.

3d. The force of the current will be increased by either increasing the slope of surface or by increasing the volume of water passing through the channel, or by increasing both.

4th. The friction of the bed controls the velocity of the current just as the application of the brakes to a railway train going down grade without the aid of the engine regulates the velocity at which the train moves. The railway brakes and the friction of the bed are to this extent identical in their effect.

5th. The friction increases just as the width of the bed increases. That is to say, if the bed of the channel be twice as great the friction will be twice as great. It is important to remember this fact as we proceed, because friction is one of the very important elements that are totally ignored in planning the Galveston jetties, as will be presently seen.

6th. The power of water to transport sand increases with the square of the velocity of the water. That is to say, if the current be made twice as rapid it will be able to transport four times as much sand.

Now, if we consider these simple facts in their application to the plan now being executed at Galveston, it will be apparent that if the jetties, instead of being located 12,000 feet apart (2¼ miles), were located, for instance, only 4,000 feet apart, the friction retarding the flow of the water through them would only be one-third as great. Hence, with the same slope of surface from Galveston Bay to the sea, or from the sea to Galveston Bay, the current through them would be greatly accelerated. And as the transporting power of the water increases with its velocity, it would, with this reduced width of channel, be much greater, and it would more rapidly excavate and maintain a much deeper channel than could possibly be secured by the present design.

The reason why these jetties were located so widely apart is to be found in the fallacious arguments which the officers responsible for the plan advanced regarding the re-formation of the bar. Major Howell, discussing in 1874 the application of jetties at the mouth of the Mississippi, declared that "jetties will have to be built further and further out, not annually, but steadily every day of each year, to keep pace with

the advance of the river deposit into the Gulf, provided they are attempted" (at the mouth of the Mississippi).

General Humphreys (Ex. Doc. No. 220, Forty-third Congress, first session, April 15, 1874) says, under the head of "South Pass": "The mean width of the pass is 700 feet, but a less width for the jetties must be taken if a channel-way of suitable width with a depth of 27 feet at low water is to be attained. Assuming 500 feet for this width, then as the width of this bar, where the annual accretion of 111 feet is made, is 3,000 feet, we shall, with jetties 500 feet apart, have an annual advance of 670 feet."

General Newton, in the same document, under date of April 4, 1874 (see Report of Secretary of War, 1874, vol. 2, part 1, p. 883), says:

"It is evident that in proportion as the cross-section of discharge on the outer crest of the deposit or bar widens, its progress into the Gulf will become slower, and, on the other hand, if the cross-section be narrowed, the progress of the deposit will become more rapid. Whether the relative progress be in the simple inverse ratio of the width of discharge, or in some other, it is not important here to inquire. The essential fact that as the width of the cross-section diminishes the rate of progress of the bar into the Gulf must increase is self-evident.

"Let us test by this rule the relative advances of the bars at the mouths of the Southwest Pass and South Pass, and of Pass à l'Outre, each mouth being supposed to be treated with the jetty system, and the width of cross-section at the end of the jetties being that corresponding to the maintenance of the depths of 25 feet on the passes themselves:

| | Southwest Pass. | Pass à l'Outre. | South Pass. |
|---|---|---|---|
| Natural width of cross-section of discharge into the Gulf.....miles.. | 2½ | 1½ | 1 |
| Width between heads of jetties.....do.. | ¾ | 42,100 | ⅛ |
| Ratio between these .....do.. | 3 | 4 | 8 |
| Present annual rate of progress of the bar .....feet . | 338 | 302 | 280 |
| Estimated annual rate of progress of the bars after completion of jetties.....feet . | 1,014 | 1,208 | 2,240 |

General Newton, in the above, undertakes to show that, under the influence of jetties at the mouth of South Pass, to produce only 25 feet depth of water the advance of the bar would be at the rate of 2,240 feet per annum! As the jetties have maintained a 30-foot depth of channel for nearly five years, during all of which time there has been no occasion to extend them a single foot, and as there has been no indication of bar advance to justify a belief that it will be necessary to extend them a single foot during the next hundred years, it must be evident that all of these distinguished officers were mistaken. If General Humphreys had been correct, I should have had to extend the jetties by this time nearly three-quarters of a mile; if General Newton had been correct, I would have to be at work to-day on the jetty ends 2¼ miles farther out, where the water is 160 feet deep; and if Major Howell had been correct, the jetties would be well on their way towards Cuba. When the stubborn facts of 1884 at the mouth of the South Pass are compared with these declarations, comment becomes unnecessary.

That the entire Board which approved Major Howell's plan for Galveston entertained the views expressed by these officers will be seen from the following quotation from their reports to the Chief of Engineers.

Major Howell says (Report of Secretary of War, 1874, vol. 2, part 1, pp. 732-733): "The jetties are expected to act as training walls for the lower ebb channel, while the upper will pass over them. They are calculated to give a depth on the outer bar of from 18 to 19 feet, and at the same time only confine and direct so much of the ebb and flood currents as may be useful, thus preventing as great an advance of the bar gulfward as might be expected were the jetties built up to the plane of mean low tide."

At page 737 of the same volume Messrs. Tower, Wright, and Newton say:

"The letter of instructions before referred to imposes the condition that an increased depth of water shall be 'permanently' secured. If taken literally this condition cannot, in the opinion of the Board, be fulfilled by the present project, or by any other known method of improvement."

This opinion regarding the impracticability of securing a *permanent* depth of channel is based upon this mistaken theory of bar advance.

After submitting his estimate of the cost, Major Howell says:

"After construction, these jetties will, from time to time, require extension to keep pace with the extension of the bar gulfward. The times and amounts of such extensions cannot be stated, but it is my opinion that the advance of the bar will not be rapid."

The quotations I have made from General Humphreys and General Newton's reports respecting South Pass show that, in their opinion, in proportion as the improved channel is narrowed by the jetties, the greater will be the rate of the bar advance. As this would, in their judgment, be more rapid with a narrow channel, and as the whole plan at Galveston was purely experimental, the very moderate depth of 18 feet was taken as the maximum that should be secured to reduce to the lowest limits the enormous expense that was to be looked for in the extension of the jetties afterwards. General Humphreys stated that the annual extension of jetties at the South-west Pass would cost a million dollars per annum. (See Ex. Doc. 220, 1st session 43d Congress, p. 13.) The depth of 18 feet was the least that the demands of commerce could be satisfied with at Galveston, and as this depth was determined upon, it followed, by their arithmetical theory, that the magnificent width of 2¼ miles was necessary to be established between the two jetties to restrain the phantom of bar advance.

These gentlemen totally overlooked the fact that the friction through such a wide channel would neutralize the effect of the current, an increased force of which must be had to insure the deepening of the channel. Forgetful of the retarding effects of friction on such a channel, they then committed their crowning mistake of leaving enormous lateral outlets near the land, through each jetty, by which the current should be still more enfeebled.

Another equally important principle involved in the jetty system was likewise overlooked by them. I allude to the effect of wave action upon the sandy bottom of the shores of the sea.

It is simply impossible to permanently maintain between *submerged* jetties any increase of depth, even if such jetties could produce it. It is necessary to explain wave action so that the committee will fully understand its bearing upon the question of bar advance, as well as upon the maintenance of the channel between the jetties.

The waves of the sea produce no continuously horizontal motion whatever in the water over which they are passing, unless the depth be so shallow that the crest of the wave, when it sinks, will feel the resistance of the bottom. When this occurs a motion of translation or horizontal motion, invariably toward the shore, is induced in the water. Of course, the higher the waves the greater will be the depth at which this horizontal movement will be produced. The waves of the Gulf of Mexico are not high enough to produce this effect sensibly in a greater depth than 25 or 30 feet. Waves result from the friction of the wind, and they increase in size in proportion to the "fetch" or distance they are driven under its influence. The fetch in the Gulf of Mexico is limited to about 800 miles, and the waves are not, therefore, excessively high. Large waves near the shore are always driven towards the shore, for the reason that a wind blowing off the land cannot create them of any considerable magnitude near it, and because the shallower the water in which the waves are traveling the slower will be their progress; hence, if the waves are moving under an impulse parallel to the shore they will be moving at right angles to that shore, and the end of the wave nearest the land will move more slowly because it is in shallower depth. This will cause the waves to come obliquely upon the shore. Hence the horizontal or translatory motion of the water induced by the waves is always towards the land. As they move onwards to the beach this horizontal motion increases in velocity until, under its impulse, the water is driven far out on shore.

Even under the influence of severe storms the transporting power in the Gulf waves is limited to the depth of twenty-five or thirty feet. It increases in strength as they roll into the shallower water; therefore when they rush out upon the beach they are highly charged with sediment; a momentary pause ensues before the retreat of the wave occurs, and during this pause the sand is dropped on the shore. As the return current starts from a state of rest it has less power to carry the sand down to the sea, than the rapid current had to bring it out upon the shore. In addition to this, the retreating current has less volume, because during the momentary pause before the ebb sets in, the volume of the water, which is one of the elements producing the current, becomes much less than it was when coming out on to the shore, much of it sinking into the beach, and, therefore, the return current, although induced by the steep slope, will be slower and incapable of transporting all of the sand back again.

In this way the sea waves are continually transporting sand shoreward on the sandy beaches of the sea, and where no littoral currents exist these beaches continue to grow seaward.

The water which issues from any tidal basin such as that at Galveston, or from any river, must struggle to reach the sea through the barriers of sand that are thus continually heaped up by the waves.

Now, as the influence of this action depends upon the height of the waves, it must follow that the deeper the mouth of the jetty channel is made the less will be the ability of the waves to create a bar in front of that channel. I think it would be simply impossible that the waves of the Gulf of Mexico should disturb the sand in

the bottom of the channel 25 or 30 feet deep at the end of the jetties. This opinion is based upon experience and observation at the jetties of the Mississippi River.

Instead of there being a propriety in placing jetties two miles and a quarter apart at such a location as Galveston, through fear of an advance of the bar, it must be evident, for the reasons given, that they should be placed so as to create the deepest channel compatible with the safety of the jetties against being undermined, and with due regard to the economy of their maintenance. The closer together they are, within the limits of safety, the less will the friction of the bed retard the entry and exit of the water through them, the deeper will be the channel produced by the current, and the earlier will be the relief afforded to commerce. The deeper the channel the less possible will be the reformation of the bar in front of it. If they be placed too close together, the channel will become so deep that the jetties themselves will be undermined or the cost of maintenance will be increased.

It must be evident to any engineer who takes up the study of a problem like this, that these gentlemen entirely overlooked the effect of both friction and wave action in the location of their works, and were totally wrong in anticipating an advance of the bar; nor did they consider the effect of wave action in determining the height of their jetties. In a space of two and a quarter miles wide, and but from twelve to fourteen feet deep, with a bottom of quicksand, disturbed by every storm which sweeps across it from one side or the other, the wave action would be sufficiently energetic to fill up and obliterate any channel which the current in calmer weather might be able to excavate.

The height to which they limit the jetties must expose any channel excavated between them to serious interruption, if not obliteration, by the sands which would be transported from the outside of them into the jetty channel. They propose that only a portion of their jetties shall be built up to the level of mean low water, thereby leaving the tide to rise from one to four feet over the tops of the portions where they are highest.

The jetty system is essentially a system of conservation of the water and not one of diffusion. But, as if this facility of overflow were not a sufficient violation of the fundamental principle underlying the jetty system, they actually leave in their plan enormous outlets by which the lateral escape of the water through each jetty near the land will be made. (See plan of works in Colonel Mansfield's report of 1880.)

What is known on the Mississippi as the *outlet system* has undergone the most crucial scientific discussion and careful studying during the last eight or ten years. It has been condemned by the Mississippi River Commission, who were directed by Congress to examine and report upon it, and it has been also rejected by the action of several Congressional committees as a system wholly wrong in principle where the deepening of a channel is to be sought. Although this decision was arrived at four or five years ago, the experimental plan of the Galveston jetties has remained unaltered, and the flood-tides, whose volume should be retained in their outflow to deepen the channel, are allowed to escape over the whole length of the submerged jetties.

Under the mistaken idea of facilitating the inflow of the tide, oblivious of the fact that, if it be made to flow through one single channel of moderate width it will have less friction to retard it, and will more easily fill the bay than if it be made to come in through three wide ones, they proposed two lateral channels near the land end of the jetties. The one through the south jetty, as shown on the plans published in 1880, is a mile long; the one through the north jetty is ten thousand feet, and the one through the direct jetty channel is two and one-quarter miles, making a total width of over five miles. They seem to have wholly forgotten also that these lateral outlets will offer the readiest, shortest, and easiest route for the escape of the ebb tide, which must do all of the excavation required to secure and maintain the improved channel. They evidently believed when planning these novel works that the water will flow in through these short routes to the bay, but will go out through one three times as long to deepen their channel. If we suppose the height of the water at the present outlet of Galveston Bay, between Fort Point and Bolivar Point, to be twelve inches above the level of the Gulf beyond the bar, it will be seen that to reach this latter level through the jetties the water must travel about four and a half miles; which would give a slope of about two and a half inches per mile, whereas, through these great lateral outlets the water can reach the same level in a distance of a mile or two, by a fall more than two or three times as steep. It is, therefore, preposterous to suppose that the discharge of the bay will be made through the ends of the jetties and over the shallow part of the bar when it can be so much more easily discharged through these openings and over the jetties. But aside from this great error, which ignores one of the most elementary principles of hydraulics, namely, that water will flow by lines of least resistance it is absolutely necessary that the jetties, to be successful, should be built up so high as to prevent not simply the waste of water over them, but also the wave action bringing sand over their tops from the outside into the improved channel.

General Newton, when discussing in 1874 the application of jetties at the mouth of South Pass, said (see Report Secretary of War, 1874, vol. 2, part 1, p. 885):

"The longitudinal section of its bar and bed by its irregularities indicates very clearly that the shoaling process is going on throughout, and that the pass at the present time is hanging between the condition of a *live pass* and a *stagnant ditch*, to the last of which results it must arrive if a revolution in the delta does not redeem it. And this most probable fate will be precipitated by applying the jetty system to its mouth."

In his official criticism of the bill which embodies my proposition to produce thirty feet of water at Galveston, at the sole risk of myself and associates, and without pay if we do not succeed, this same officer says: "Should Congress be resolved to make a change in the administration of this work, at least it will be for the interest of the service to await the construction of the north jetty, and the observations of its effects which will lead to the possession of facts and data calculated to throw a needed light upon the amount necessary to be expended for obtaining a proper depth on the bar."

When we examine the reports of these officers and read the prediction of their Chief regarding the South Pass of the Mississippi, which by his scientific reasoning was to be converted into a "stagnant ditch" by the application of jetties instead of being made by them, as it is, the grand highway of a nation's commerce, it cannot be wondered that he should utter this plea for "the interests of the service," and declare that they will be promoted by the possession of facts and data by which a needed light can be thrown upon the problem they have in hand. The want of this "needed light" in 1874 caused the present Chief of Engineers not only to oppose the application of the proper method of securing deep water for the great valley of the Mississippi, but also to sustain a hopeless plan to give eighteen feet of water at the chief shipping port of a territory twice as large as Great Britain. And now, after losing ten years of precious time in this absurd experiment, he recommends that the interests of Texas and the vast section tributary to Galveston be subordinated to "the interests of the service;" and in admitting the lack of this "needed light," he virtually acknowledges what every citizen of Galveston well knows, namely, that the plan to which they are clinging so tenaciously is simply an experiment, which in ten years has produced no substantial benefit whatever, and from which it is utterly hopeless to expect any.

In comparing the cost of the jetties contemplated in Senate bill 1652 with those which were constructed at the mouth of the Mississippi River for five and a quarter million dollars, it will be observed that the distance to deep water across the bar at Galveston is more than twice as great as it was to the same depth at the mouth of the Mississippi. In other words, the jetties at Galveston must be more than double the length of those at the mouth of the Mississippi. The cost of extending works out into the sea to twice the distance involves a much greater cost than would be at first supposed, because the farther out from the shore the works extend the more exposed they become, the heavier they have to be constructed, and the greater is the danger to the boats, apparatus, &c., required in their construction. In addition to the length of jetties required, extensive works are needed to deepen the inner bar to create a depth of thirty feet to the harbor of Galveston. These works will need to be quite as extensive and quite as expensive as those which were required at the head of South Pass.

In comparing the amount of seven and three-quarter millions with the official estimates for the completion of the works at Galveston, it will be noted that these estimates do not include any works for the deepening of the inner bar. Upon this subject the board of 1874 says (see Report of Chief of Engineers, vol. 2, part 1, p. 739):

"As regards the works within the bay, designed by Captain Howell for the purpose mainly of increasing the width of the harbor of Galveston and of improving the bar at its mouth, the board is of the opinion that nothing should be done till the question of the practicability of permanently improving the outer bar shall have been demonstrated, and it therefore expresses no opinion thereon."

The two jetties which are required at Galveston will have to be fully 9 miles long, and will have to extend out into much deeper water than those designed by Major Howell. In addition to this, as I have already stated, it is absolutely necessary that they be built up, not simply to high tide, but very considerably above it, to prevent the sand from being brought over into the jetty channel from the shoals on the outer sides of the jetties.

Colonel Mansfield reports that the south jetty is only built up to mean low tide through a distance of about 4¼ miles. The plans for the north jetty show that it is to be built up no higher and for a distance of only about 1 mile. It is, therefore, unfair, as well as idle, to attempt to compare the cost of this system of low submerged jetties from 2 to 14 feet high, and not extending into deep water, with those which must, to be successful, extend out into it and be built to twice or three times the average height of the other, for the reason that the cost of both systems will be as the square of their heights, other things being equal, while the extensions into the deep water will increase in a much more rapid ratio. Besides, the jetties must be capped

with heavy concrete blocks or other substantial constructions to resist the force of the waves, whereas the jetty now built at Galveston has no such force to withstand in its submerged condition, and is proportioned accordingly.

In proportion as we build the jetties up to the surface of the water this force of the waves becomes more and more powerful against them. It must be apparent, then, that a jetty to resist their violence, and to stop them from breaking over into the channel, must be vastly stronger than if they be built only up to the level of mean low tide. Hence it is idle to attempt to compare the cost of jetties properly built up to the necessary height, and extending with that height from the land clear out to 30 feet water beyond the bar, with those which have been designed by the United States Engineers for Galveston harbor. As the tide sometimes rises three or four feet above mean low tide, the jetties will have to be built at least eight or nine feet higher than the one now completed by Colonel Mansfield.

The total cost of this jetty wrongly located, and of these insignificant proportions, has been one million and a half dollars, including the wrecked gabionade on the north side of the channel.

If the plan of the Government at Galveston possessed real merit, it is not at all likely that the immense territory which is to be relieved by deep water at that harbor would attain the relief sought within the next fifteen or twenty years under the present system of appropriating money to carry on public works; and this system seems so securely fastened upon the country, that there is no present appearance of its abandonment. It is not unlikely that, if the method by which the mouth of the Mississippi River has been deepened, had been placed in the hands of the United States Engineers and appropriations for it had been doled out in the way in which they are voted from year to year, the works would scarcely be completed to-day, whereas the commerce of the Mississippi Valley obtained its relief about seven years ago, at which time the depth through the jetties was sufficient to admit at least 90 or 95 per cent. of the commercial tonnage of the world, while for the last five years the depth has been amply sufficient for the largest steamers afloat.

By the proposition which I make, it must be evident that it will be to the interest of myself and my associates to secure at the very earliest possible date the greatest depth of water which we propose to secure, and it is needless to say before this intelligent committee that the producers in the territory which is tributary to Galveston harbor must annually save a sum far greater than that which it is proposed shall be paid for the entire work.

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## APPENDIX C.

## GALVESTON HARBOR.

ARGUMENT OF W. L. MOODY, CHAIRMAN OF THE GALVESTON COMMITTEE, ON SENATE BILL NO. 1652, AND A LIKE BILL IN THE HOUSE OF REPRESENTATIVES, TO PROVIDE FOR THE IMPROVEMENT OF GALVESTON HARBOR.

WASHINGTON, *June* 7, 1884.

*To the honorable Committee on Rivers and Harbors:*

As chairman of a committee recently appointed by the citizens of Galveston to look after Senate bill No. 1652, and a like bill in the House, to provide for the improvement of Galveston Harbor, I beg to submit a number of extracts, appended hereto:

From these extracts I hold it will be found in proof—

1. That there were 12 feet of water on the outer bar of Galveston Harbor in 1872, when the Government commenced to improve the same under Major Howell by what is known as the "gabionade" system. (See Appendix I.)

2. That the plan of the Government was calculated to give only an 18-foot entrance. (See Appendix I.)

3. That the outer bar was deepened nine-tenths of a foot by a severe storm in September, 1875, which depth was long after maintained, and up to the abandonment of the gabionade system in 1879. That this depth was further maintained, there being a navigable depth of 12¾ feet when Major Mansfield took charge of the work, under his "improved plan," in 1880. (See Appendix VI.)

4. That this same depth of water (12¾ feet) was still further maintained up to and during the winter of 1881–'82, but without any increase. (Appendix VIII.)

5. That during the summer of 1882 the bar shoaled 1¼ foot, leaving a depth of only 11½ feet in June, 1882. (Appendix VIII.)

6. That, notwithstanding these facts, Major Mansfield, in his report of August 3, 1882, claimed an increased depth of "1 to 2 feet," as resulting during the winter of 1881–'82, from his then partially constructed foundation course of mattresses. (Appendix VIII.)

7. That the survey made in July, 1883 (the last reported), showed a deepening of the bar 1¼ feet, at which time there was only a 13-foot channel, or an increase of only 3 inches since Major Mansfield took charge of the work in February, 1880. (Appendix IX.)

8. That notwithstanding this increase of only 3 inches, which cannot be attributed to his work, Major Mansfield, in his report of March 10, 1883, for the second time claims an increased depth of "2 feet," and repeats it in his interview published in the Galveston News of March 18, 1884. (Appendix IX and XII.)

9. That during the progress of the gabionade structure Major Howell and his officers more immediately in charge represented their work as permanent and expressed great confidence in their plan and system. (Appendix II and III.)

10. That Major Mansfield, always perfectly confident of his improved plan and new location, repeatedly gave expressions of hope of 18 feet of water to result from the south jetty alone. (Appendix VI, VII, VIII, IX, X.)

11. That the south jetty being completed, and failing to give any increase of water, Major Mansfield was forced to shift position and conclude that "one jetty without the other was worse than a fiddle without a bow." (Appendix X, XII.)

12. That the south jetty, although Major Mansfield says it is as "solid as adamant," must be in a precarious condition, since he admits that a deep channel, from 4 to 8 feet, has been excavated along its south face and is permanent. (Appendix X, XII.)

13. That there have been expended by the Government on the outer bar $1,220,000. (Appendix X.)

Now, Mr. Chairman, I believe that no candid person, carefully reading the extracts here submitted, can question the correctness of the above propositions. If correct, all must admit that the people of Galveston are warranted in their conclusions that the Government engineers in charge of the works will never succeed in obtaining a depth of water adequate to the wants of commerce.

This conclusion was reached only after a large expenditure of money by the General Government and by the city of Galveston, and after a patience of over ten years.

In November last, a joint committee of aldermen and citizens of Galveston addressed a letter to Capt. James B. Eads to learn of him if he would undertake the work of deepening the water on Galvestou bar, expressing the hope and belief that the General Government, in view of the national importance of a good harbor at Galveston, would contract with him on reasonable terms. Captain Eads replied, and the correspondence led to the introduction into Congress of the bill now before you for your consideration, and for which we respectfully beg your favorable report.

W. L. MOODY,
*Chairman, Galveston Committee.*

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## APPENDIX I.

(Extracts from the Annual Report of the Chief of Engineers for 1874.)

In his report to Major Howell, dated June 19, 1873, Lieutenant Adams says: "In compliance with your order of September 9, 1872, I have to report on the survey of Galveston harbor as follows: The object of the survey, as stated in your letter of instruction, was to determine and estimate the cost of some plan calculated to give an 18-feet entrance to Galveston Harbor. * * * The depth of the water on the outer bar is 12 feet. * * * On the inner bar we found an intricate channel, giving 12 feet of water."

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## APPENDIX II.

(Extracts from the Annual Report of the Chief of Engineers for 1875.)

Lieutenant Quinn, in immediate charge of the works, in his report to Major Howell, of December 9, 1874, says: "In this most undesirable condition they (the gabions) were by necessity left to withstand the fierce storms of the 4th, 5th, and 6th of December. * * * After the storm he found the gabions were substantially in the same position they had been put"—"that they had not been undermined or settled any. They have proved their ability to withstand the effects of a severe storm when filled with water only."

The same officer in his report of February 5, 1875, says: "In every case where the gabions were filled with sand, or partially so, and properly protected by mats, no derangement and but little settling has occurred. * * * I am thoroughly convinced that when the gabions are filled with sand and properly protected, no storms except

such as are capable of obliterating entirely the island upon whose shores they are placed, will ever displace them."

Major Howell, submitting these reports, says: "The work was necessarily conducted under very unfavorable conditions that, now that it has passed from the experimental stage, will not again be met."

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### APPENDIX III.

(Extracts from the Annual Report of the Chief of Engineers for 1876.)

The severest storm perhaps ever known in Galveston swept over her on the 14th and 15th of September, 1875. On the 13th of October following Major Howell, reporting to the Chief of Engineers, referred to the great storm, and added: "The cheapness of the gabion jetty has been demonstrated in previous reports. The stability of the structure, I think, may be considered as beyond question. The applicability of jetties as planned for this harbor entrance, I believe, has not been doubted. The demand for improvement is now, if anything, greater than it has been heretofore. These four assumptions justify resumption of the works."

The superintendent reported that—"The gabion jetty has been thoroughly examined by the diver and found to be in thorough order. No serious settling has occurred."

Assistant Engineer Ripley, having made resurveys, reports July 3, 1876: "A new channel across the outer bar was made" (by the September storm); "a mean depth of 9-10 of a foot was attained;" "a channel of sufficient width for navigation, having a depth of 12½ feet at mean low tide, was thus formed, which has been maintained up to this time, and shows every indication of permanence." A new channel by the same storm was cut through the inner bar, giving 12 feet at a point where there were only 7 feet, which increased to 14¾ feet in February, to 15 feet in March, and to 16½ to 17 feet in June following.

The Chief of Engineers, in his report of October 21, 1876, says: "The cylinder channel across the outer bar was deepened 9-10 foot by the storm of September, considerably widened, and has since retained its increased dimensions"

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### APPENDIX IV.

(Extracts from the Annual Report of the Chief of Engineers for 1877 and 1878.)

The reports for 1877 and 1878 show no new features of importance except the inner bar had increased its depth to 20 feet. Major Howell, in his report for 1878, says: "The results appear sufficiently satisfactory, and may lead one less sanguine than myself to confidently look for results on the outer bar equally as gratifying as those obtained and maintained over the inner."

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### APPENDIX V.

(Extracts from the Annual Report of the Chief of Engineers for 1879.)

In 1879 Major Howell says: "The results of the year's work have not been such as those obtained by the inner bar led me to anticipate. It is now evident that the method of construction so successfully employed on the inner bar requires modification in its application to the outer bar." * * * "The outer bar surveys did not show any change that could be attributed to the influence of the gabionade, nor was it anticipated that the latter could have any appreciable influence, it not having been extended far enough outward to warrant such anticipation."

The Chief of Engineers says: "It is thought that the method of construction in its application to the outer bar required modification, which subject is now before the Board of Engineers."

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### APPENDIX VI.

(Extracts from the Annual Report of the Chief of Engineers for 1880.)

The Chief of Engineers, in his report of October 16, 1880, refers to the appointment of Major Mansfield, and says: "The appropriation of $500,000 asked is to be applied

to building jetties of brush and stone, directed toward obtaining an improved depth of water over the outer bar, where there is now but 12¾ feet."

Major Mansfield relieved Major Howell in February, 1880, and took charge of the works in person. In his first annual report, dated July 17, 1880, referring to the gabionade system, he says: "It is now intended to build the jetties of brush and stone, on a system that will undoubtedly succeed, for it has been applied to open-sea exposure at the mouth of the Maas, where it has realized all anticipations. * * * I am confident that the application of the system here will be attended with perfect success."

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### APPENDIX VII.

(Extracts from the Annual Report of the Chief of Engineers for 1881.)

The reports for 1881 show that the work on the south jetty was begun in July, 1880, the point of commencement located 3,300 feet from the outer end of Fort Point gabionade, in 6 feet of water; but little progress made in construction.

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### APPENDIX VIII.

(Extracts from the Annual Report of the Chief of Engineers for 1882.)

In his report of August 3, 1882, Major Mansfield says: "The most important part of our work and that from which we expect good results has been all placed since last winter, and we must therefore for a realization of benefits await the action of the strong ebb currents that will accompany the northers of next winter. As the result of our work of last season, which did not extend above the foundation layer of mattresses and to a point far short of the crest of the bar, vessels were enabled to cross the bar drawing 1 to 2 feet more water than formerly." * * * "Indications all point to a successful result. It is not unreasonable to expect a very great improvement of the bar upon the advent of this fall's storms."

In his report dated July 26, 1882, Assistant Engineer Ripley, referring to his surveys made June 12–16, 1882, and contrasting the same with his surveys made during the previous winter (in the months of December, January, and February), says that his late survey "shows less favorable change than might have been expected from the amount of jetty constructed. Along the south side of the jetty, for a distance of two miles from the outter end, a trench has been scoured from 3 to 6 feet deep near the edge of the jetty and sloping up to the normal depth at a distance from 200 to 500 feet."

"With regard to the shoaling on the crest of the bar, it should be remembered that during the winter months, when the northers prevail, is the time of greatest scour on the bar; and during the summer months, or during the absence of northers and the prevalence of easterly and southeasterly winds, the crest of the bar is always shoaled. Now, this survey was made in midsummer, and only a short time subsequent to a very severe easterly storm, which was not accompanied nor followed by any extraordinary outgoing tides, while the survey with which it is being compared was made in midwinter, and it is believed that to this cause may be attributed the apparent shoaling where there was every reason to expect a deepening. This belief is further strengthened from the fact that on the 6th of December last some soundings taken through the jetty channel gave two lines across the bar with a least depth of 12¾ feet at mean low tide, which is 1¼ feet greater than the deepest line of soundings across the bar of the present survey."

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### APPENDIX IX.

(Extracts from the Annual Report of the Chief of Engineers for 1883.)

In his report of July 31, 1883, Major Mansfield refers to the progress of his works. He submits a letter from Hon. R. L. Fulton, mayor of Galveston, dated March 9, 1883. The river and harbor bill having failed at the previous session of Congress, the city of Galveston deemed it necessary to have the works continued, and the mayor, in his letter to Major Mansfield, amongst other questions, asks: "What is the least amount of money, aside from what you have on hand, that you will require to continue your works during the summer, and with that additional amount furnished, what will be

the probable difference in the depth of water on the bar for the next season's business, compared with what we now have, or will have at the time you will have to stop work when the Government's funds are expended?"

To this Major Mansfield replies March 10, 1883, and, among other things, says: "It will be sufficient for me to say, in answer to a further inquiry, that $100,000 will keep the work on through the summer, and will effect the entire completion of the south jetty, giving us a wall four miles in length, over and beyond the crest of the bar, built up throughout to the level of mean low water. The result of this concentration and training of the ebb currents upon a limited extent of the bar cannot be predicted exactly. I should be very much disappointed, however, if it did not result in a channel of 18 feet by next fall."

In his report to the Chief of Engineers, he further says:

"As an evidence of the value of the works already accomplished, with corresponding increase of 2 feet in depth of water on the bar, I take pleasure in furnishing you with a copy of letters recently addressed to me by Messrs. Irvine & Biessner and Messrs. Adone & Lobit and Capt. J. N. Sawyer."

NOTE.—The two firms named here control all the lighterage interest owned in the city of Galveston. Captain Sawyer is agent for C. H. Mallory & Co.'s steamships.

The $100,000 was appropriated by the city of Galveston and expended by Major Mansfield.

Relating to the survey made and concluded July 21, 1883, Assistant Engineer Ripley, in his report of August 21, 1883, says: "In the jetty channel at the shoalest point there has been a deepening of 1½ feet, so that there is now a least channel depth of 13 feet, and a width of 1,000 feet from the jetty to the 12-foot contour north of it. Aside from the deepening in the jetty channel, the depth on the crest of the bar remains practically unchanged."

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## APPENDIX X.

(Extracts from the official report of Major Mansfield, of March 19, 1884, on Senate bill 1652.)

"Work for the improvement of the outer bar was commenced in April, 1877, by the commencement of the construction of the Bolivar gabionade. This work was continued until November, 1879, when it was abandoned before reaching the bar and without appreciable results, having expended upon it for all purposes $245,000."

"Work under the present plan was commenced in July, 1880, in the construction of the south jetty. Upon this work there will have been expended for all purposes the sum of $975,000, including $100,000 donated by the city of Galveston." He further adds: "A careful survey of the changes continually going on and the causes which produce them, will explain why there has been no greater increase, and also furnish proof of ultimate success of the work." He further says: "This drifting sand is banked against the north side of the south jetty, and thus tends continually to obliterate the jetty channel; the overflow of water, on the other hand, has excavated a deep trench along the south face of the jetty. The amount of deepening due to this overflow varies from 4 to 8 feet, and remains permanent."

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## APPENDIX XI.

Extract from a public speech made by Major Mansfield, at a banquet in Galveston, December 5, 1880.)

How will 18 feet of water do in that time—one year—with the prospect of 25 feet in another year?

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## APPENDIX XII.

(Extract from an interview published in the Galveston News of March 18, 1881.)

Major Mansfield was asked: "Have you still faith in your present plan?" To which he replied, "Yes, sir; most unbounded faith. Sense, reason, science, precept, teaches me that I am right. Talk as people may, there is 2 feet of water more on the bar now than there was two years ago. This has been demonstrated by careful surveys, and investigations will prove its correctness. What is known as the south jetty is now completed. It is four and one-fourth miles long and as solid as adamant. The north jetty will be only two miles long. You see the work so far performed will be

practically useless unless it is completed. One jetty without the other would than a fiddle without a bow."

NOTE.—Since the above statement was submitted, General Newton, Chief neers, by letter of June 20, 1884, informed Mr. Joseph Nimmo, jr., Chief of Statistics, that he had received from Major Mansfield a telegram to the effect:

"Depth of water at outer bar, Galveston, was 13 feet at mean low tide, feet at mean high tide, by last actual survey, January 9, 1884."

This telegram was in answer to General Newton, making inquiry at the Mr. Nimmo.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 903.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 10, 1884.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill S. 2314.]

*The Committee on Claims, to whom was referred the bill (S. 2314) entitled "A bill for the relief of the legal representatives of Aquilla Lockwood," report as follows:*

It appears from the evidence submitted to the committee that in 1861 Aquilla Lockwood was the owner of a country seat in Fairfax County, Virginia, distant about 3 miles from the city of Alexandria; that it consisted of a country house surrounded by about 16 acres of land under a high state of cultivation; that in May, 1861, the property was taken possession of by the military authorities of the United States, and thereafter while the war continued was used for military purposes; the claim is for a rental of the property and for damages done to the house and grounds while so occupied by the United States.

The property was situate in Virginia, a seceding State, and where actual war was being carried on by and between the United States and the Confederate States. It was taken possession of by virtue of the war power inherent in the Government, and used for military purposes. It is not claimed that Lockwood was loyal to the Government of the United States. The Government had a legal right to take possession of the property when it did, and to retain its possession so long as it deemed it necessary to do so for military purposes, and is under no obligation to pay for its use.

Your committee therefore recommend that the claim be not allowed, and that the bill do not pass.

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48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 904.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 10, 1884.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill S. 2119.]

*The Committee on Claims, to whom was referred the bill (S. 2119) for the relief of Dudly D. Smith, in his own right and as administrator of Whitcomb Smith, deceased, have had the same under consideration, and submit the following report:*

The essential facts of this case are as follows:

Whitcomb Smith was the son of Dudly. The son was a loyal citizen at the time of the destruction of the property hereinafter named, as well as before and after that time. And the same is true of the father.

The father owned a house in the town of Guyandotte, W. Va., which, with fence, barn, &c., he claims, was worth $1,500. In and around it were the household furniture, clothing of the family, and other property, valued by him, per inventory submitted, at $906.50.

The father and son owned a storehouse, which, he says, in March, 1871, would be worth $1,500, but at the time of its destruction, in view of the war, was valued at $400.

As to the destruction of the property.

Colonel John L. Zeigler, commanding the Fifth Virginia Volunteers, says that on the 11th of March, 1861, the town of Guyandotte was captured by the rebels; that on that day he entered the town, and that in the fight the town was burned as a military necessity. That the property for which compensation is asked by claimant was burned in the general conflagration.

Several other witnesses testify that, in their opinion, there was no necessity for the burning of the town. It may be that Colonel Zeigler was mistaken when he determined that the burning of the town was a military necessity, but he was the military commander at the time and place, and flagrant war then and there existed. He alone had the power to decide the question, and having decided it, his decision is necessarily presumed to have been correct.

The property of the claimant having been destroyed on the theater of war pursuant to the order of the military commander, it is necessarily presumed to have been rightfully destroyed, and the Government is not liable to make compensation.

We recommend that the claim be disallowed and the bill indefinitely postponed.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 905.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 10, 1884.—Ordered to be printed.

Mr. SHEFFIELD, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill S. 2326.]

*The Committee on Claims, to whom was referred the bill (S. 2326) for the relief of Margaret T. Murphy, report as follows:*

Miss Murphy claims $6,792.35 from the United States, a balance for damages to her buildings at Baton Rouge, La., and for the loss of the furniture in the buildings.

## FACTS.

The main building belonging to Miss Murphy was known as "Lyceum Hall," and before the war was used by her as a school-room. General N. P. Banks, under date of September 12, 1865, certifies to the loyalty of Miss Murphy.

By a letter from the superintendent of colored schools dated January 18, 1865, it appears that the building was turned over to the Bureau under his charge July 23, 1864.

Miss Murphy took the oath of allegiance to the Government of the United States November 17, 1865.

J. D. O'Connell, deputy collector of internal revenue, certifies that he was directed by Capt. Edward Page, then provost marshal, to secure the assistance of two competent persons to estimate the damages sustained by Miss Murphy to her property, known as "Lyceum Hall," said property having been used by United States soldiers.

John Pierce and John D. O'Connell were selected and appraised the damages, including rent to December 24, 1863, at $2,568.25, which amount was paid to and receipted for by Miss Murphy December 28, 1863.

Miss Murphy addressed a petition, without date, to Major-General Banks, alleging that she was misled in signing the receipt of December 28, 1863, and prayed that a commission be appointed to determine, assess, and report damages suffered by her property during and since the month of September, 1863.

This petition was referred, by order of General Canby, to claims commission, of which Col. S. M. Quincey, Ninety-sixth United States Colored Infantry, was president.

At this time the entire rent of the premises had been paid.

Colonel Quincey, in December, 1865, made a report as follows, to wit.

ROOMS OF CLAIMS COMMISSION, DEPARTMENT OF LOUISIANA,
*No. 220 Saint Joseph street, New Orleans, December*, 1865.

SIR: The claims commission designated by Special Orders No. 63, dated Headquarters Department of the Gulf, New Orleans, La., March 7, 1865, having considered the claim of Margaret T. Murphy, heretofore referred, respectfully report:

The claimant, to whose active loyalty and deserving character the commissioners can testify, seeks indemnity and compensation from the Government of the United States for damages caused by the military occupation of her property, known as "Lyceum Hall," in the city of Baton Rouge, from December 24, 1863, to August 1, 1865. The property had been occupied by the provost guard for a year previous to the first date. The damage resulting from such occupation was estimated at the amount of $1,968.25, which sum was paid and receipted for "in full" for said first year's damages. In order to arrive at the amount of subsequent damages, claimant has now caused an estimate to be made of the whole amount, and in her account credits the Government with the first payment as "on account."

The amount thus arrived at as the damages suffered in the last nineteen months of occupation is the sum of $6,792.35. As this second estimate was made on behalf of the claimant, the commission cannot consistently with their duty allow it to pass without some taxation and reduction, the question being not the value of claimant's acknowledged patriotic services, but the actual Government liability for damages received.

The striking disproportion between these two amounts fixed for damages during the first year and the ensuing year and a half is partially accounted for by the fact that the second estimate includes nearly $2,000 worth of furniture and a claim of $1,500 for the destruction of a small building. But, allowing the correctness of these items, it is evident that the remainder of the estimate is based upon the presumption of an entire complete renewal and almost rebuilding of the premises, whereas, as has been decided in many previous cases, the actual liability of the Government is merely for the difference between the actual condition of the property when restored and that in which it would *then* have been with ordinary wear and tear had such Government use never taken place.

On comparison of similar items in the two estimates, the commission cannot but think that some charges are excessive. In the first estimate, painting the house inside and out, including shutters, is put at $485; in the second the item of "painting" is $800. In the first, new fencing around the entire lot, and cost of laying the same, is $275; in the second, "fencing around house" is put at $600. The damage to shrubbery for the first year is estimated at $200; that for the entire term at $1,000. Now, it does not seem possible that, if the first year's damage was $200 to shrubbery, that the ensuing year and a half could quadruple that sum and make a total of $1,000. The experience of the commission is the other way, viz: that about all damage of this sort that can be suffered is suffered during the first year of occupation. It may have been otherwise in this case, but in the absence of evidence it would not be presumed.

Allowing that the charges for furniture are correct, the commission cannot but think that one-third of the remainder of this account should be disallowed, thus reducing the same, according to their calculations, to the sum of $5,194.90. Or, should the claimant so elect, the commission recommend that the commanding officer at Baton Rouge be directed to cause evidence to be taken and estimates made on behalf of the Government in order to fix the amount of actual damages sustained. It may be remarked that rent has already been paid for the entire term.

S. M. QUINCEY,
*Colonel Ninety sixth United States Colored Infantry, President Commission.*

Maj. W. HOFFMAN,
*Assistant Adjutant-General, Department of Louisiana.*

Which report was, on December 18, 1865, referred by General Canby to Col. S. B. Holabird, chief quartermaster, who was requested to cause the property to be examined by an expert, for the purpose of ascertaining the damage actually sustained subsequent to the first year's occupation; to ascertain, if possible, what became of the furniture, and the condition of the building said to have been destroyed; by whom and by what authority it was destroyed.

Upon this reference, D. A. Ward, captain Fifty-fifth United States Colored Infantry and acting assistant quartermaster, assumed to act, and reported that he had examined the property and could not find anything in regard to the furniture or the authority for its use by the Government;

that the building was a large building used as a ladies' seminary. It was vacant at the time of the arrival of the Federal troops, and was *probably* occupied at once. He finds that at the time the house and furniture were first occupied they were probably worth $8,000, of which $1,968.25 had been paid, leaving a balance of $6,031.75, and that the property standing was worth $2,000, leaving a balance of $4,031.75 for the damages, as near as he could get at it.

On the 20th of January, 1866, General Canby (Colonel Holabird not having acted thereon) again committed the report to Col. S. B. Holabird, chief quartermaster Department of Louisiana. On the same day it was referred to department headquarters by S. B. Holabird, colonel and chief quartermaster.

January 25, 1866, it was referred by General Canby to Bvt. Maj. Gen. A. Baird, assistant commissioner, Bureau Refugees, Freedmen, and Abandoned Lands, to ascertain what rent was paid for this property.

General Baird referred the matter to Capt. W. B. Armstrong for report January 26, 1866.

January 27, 1866, Captain Armstrong reports that the Bureau of Refugees, Freedmen and Abandoned Lands had paid $650 rent for the property.

January 30, 1866, General Canby forwarded the papers to the Adjutant-General of the Army, as follows, to wit:

> Some of the items of this claim are not established by sufficient evidence, and the prices charged are extravagant. The claimant has already been paid on account of rent and damages $2,618.25, and I recommend that no further payment be made.

The Adjutant-General referred the papers to the Secretary of War, by whom the recommendations of Major-General Canby were approved February 16, 1866.

During the progress of the case affidavits were filled as follows, to wit: A. Lange, J. A. Moffitt, Nelson Potts, F. A. Nelson, S. B. Harborn, R. D. Dary, and Jules Bonnecaze, who, all subscribing to one paper, say that they knew the property of Miss M. T. Murphy, known in the city (of Baton Rouge) as "Lyceum Hall"; that they have estimated the same as hereinbefore set forth (in Miss Murphy's claim), and, to the best of their knowledge and understanding, believe the said property has sustained damages to the amount of the preceding estimated value. Sworn to August 1, 1865.

M. C. Power says that he knew the property of Miss Murphy, and that according to his best knowledge and belief on December 19, 1862, the property was worth $10,000, it being at that time in perfect good order.

H. S. Kolfield says that on December 19, 1865, to the best of his knowledge and belief, it would not sell for a greater amount than $2,000.

## OPINION.

The burden of proof to establish the validity of this claim is upon the claimant. Congress has no more right to give the public money to Miss Murphy without proof of a proper consideration therefor than it has to withhold from her money which is proved to be her due.

The claim is a stale one; it slumbered about eighteen years after it was rejected by General Canby and by the Secretary of War before any attempt was made to revive it.

Again, it appears that the claim is greatly exaggerated. For instance, the claim of $1,000 for damage for shrubbery. The painting of the

house in one estimate is put at $485. In another this claim is swollen to $800.

In equity and in admiralty the gross exaggeration of claims creates a presumption against their validity.

Further, the statement of the claimant in reference to the receipt given by her, in which the date when the rent terminated for which she was paid occurred next above her signature, shows that she was careless in giving the receipt or that she afterwards misrecollected the facts. Now, if she was careless, or her recollection was at fault in this important particular, may not the same faults have entered into other statements of the ground of her claim?

Before going further into the consideration of the claim it is proper to state that the rent of this property for the entire term has been paid, and this element has been thus eliminated from the claim. And the damages were all paid and receipted for up to December 24, 1863. It may also be remarked that there is no evidence that any furniture or school property of Miss Murphy ever came to the hands of the United States. There appears no explanation why claim for damages to the furniture was not included, if it existed, in the accounts of damages rendered and which was receipted in December, 1863. In that claim every injury to the building, fence, and shrubbery is included. Nor is there any reference in this claim of December, 1863, to the destruction of the outbuilding or claim for rent for such a building, for the loss of which $1,500 is charged; or is there any reference in the evidence when, by whom, or under what circumstances this building is alleged to have been destroyed or what became of the furniture.

It cannot be presumed that no evidence in reference to these matters was accessible to this claimant. If no evidence existed it is unfortunate for her, as she is bound to prove her claim; but if evidence existed and was accessible, and not produced by her, the presumption is that were it produced it would not benefit her.

If this furniture and this building were lost to this claimant they were lost in a time of war. War arouses the worst passions of men, and when it prevails people within the limits of its operations are plundered of their property, sometimes indiscriminately, by friend and foe. For these plunders, when shown, the Government cannot be held responsible.

We may speculate about probabilities, but we cannot decide in favor of claims without proof. The building was turned over to Bureau of Education July 23, 1864, as appears in an abstract from a letter from Josiah Beardsley, superintendent of colored schools at Baton Rouge.

The facts stated in Miss Murphy's petition are not verified by oath, and the papers do not disclose a scintilla of evidence that this property was occupied by the United States between December 24, 1863, and July 23, 1864, when it was turned over to Mr. Beardsley by the school superintendent, beyond the presumption raised by the payment of rent therefor.

The report of Capt. D. A. Ward, Fifty-fifth United States Colored Infantry, appears to have been a gratuitous report on his part, the subject matter of the report not having been committed to him by any superior officer, and that therefore may be eliminated from the case.

Again, the appraisers of the property of Miss Murphy do not appear to have been at all qualified to have given an opinion as to its value. But if they were their testimony proves nothing, for in 1862 Miss Murphy's property may have been worth $10,000, and in the disturbed state of society and otherwise altered condition of affairs in 1865 it might not have been sold for more than $2,000.

The Government cannot properly, in the opinion of your committee, undertake to make reparation to persons affected by the depreciation of property in consequence of the war; as well might the municipal corporation be held to pay for treading down the grass upon the lawn by firemen while extinguishing the flames that were consuming the mansion.

Your committee, therefore, are of the opinion that Miss Murphy has failed to establish her claim against the Government of the United States, and recommend that the bill for her relief, herewith returned to the Senate, do not pass.

O

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 906.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 15, 1884.—Ordered to lie on the table and be printed.

Mr. INGALLS from the Committee on the Judiciary, submitted the following

# REPORT:

[To accompany Senate resolution of February 11, 1884, relating to the appointment of special assistant attorneys and special agents, or detectives, in the Department of Justice.]

*The Committee on the Judiciary, which was directed by resolution of the Senate of the 11th of February, 1884, to examine and report what legislation is necessary, if any, to restrict the appointment of special assistant attorneys and special agents, or detectives, in the Department of Justice, and report by bill or otherwise, respectfully report:*

That it has considered the subject. As the law now stands the Attorney-General is charged with the general supervision of all causes and prosecutions in which the United States are interested, and with the supervision of the accounts of all marshals, clerks, and district attorneys. For this purpose he is authorized to employ special counsel as in his judgment the interests of the United States may require, and is authorized to cause examinations to be made of the conduct and accounts of marshals, district attorneys, and clerks. If it be desirable to withdraw this authority from the Attorney-General, it is only necessary to repeal these provisions of law and to enact that hereafter he shall have no such powers. If it be desirable that the Attorney-General shall be restricted in the number of attorneys, agents, or detectives that he may employ in the administration of the judicial forces of the United States, it will be necessary to make a very careful estimate of the respective numbers of these officers needed in the different parts of the country. But the committee is of the opinion that it is essential to the due administration of justice and the proper administration of the branches of the public service confided to the Attorney-General that the discretion must be reposed somewhere, and almost necessarily in him, in respect to when and to what extent he shall employ the classes of persons referred to. It is true that discretion may be abused, as it may in every other instance of public administration, but it would seem to be impracticable to conduct public affairs without reposing such discretion in some officer. The law requires from the Attorney-General a full annual report to Congress of the counsel and assistant attorneys he has employed, and of the compensation paid to them, and a detailed report of every contingent expense of his Department. If abuses occur, it is thought that the remedy for them is not by abolishing the necessary discretion, but by dealing with such officers as may be guilty of abuses.

O

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 907.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 16, 1884.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 3210.]

*The Committee on Pensions, to whom was referred the bill (H. R. 3210) for the relief of Jacob Hoerth, have examined the same, and report:*

The Committee on Invalid Pensions of the House of Representatives made the following report during the first session of the present Congress:

Jacob Hoerth served in Company C, Twenty-eighth Kentucky Volunteers, from October 31, 1861, to December 14, 1865, when honorably discharged. He applied for pension March 19, 1879, on account of rheumatism affecting the right arm, leg, and side. In a supplementary statement he states that while driving hospital ambulance near Louisville, Ky., the ambulance striking against a stump, he was thrown from his seat, striking his right side and receiving an injury which left a large knot on said side, which has ever since caused great pain, and spreading over the entire side.

There is no record of treatment while in service, simply because the claimant was employed as an attache of the regimental hospital, where he received more or less treatment without being reported on the sick-list. The colonel of the regiment testifies to the injury and the claimant's subsequent suffering from what was considered rheumatism. He also states that the injury would have necessitated the claimant's discharge, but because of his devotion to the cause of the Union and his valuable services about the hospital he was retained in the service until the final muster-out of the command. The surgeon of the regiment at time of claimant's injury returned to his native country shortly after his discharge in 1863, and has not since been heard of. His successor, Surgeon Post, testifies that he found claimant at the hospital in May, 1864, and knows that during his employment there was unfit for military duty because of rheumatism and an injury to side and shoulder, and that he re-enlisted with the understanding that he should remain on duty in the hospital department.

That claimant was sound at enlistment is clearly shown by the evidence produced during a special examination in March, 1883, which likewise shows that he has been a constant sufferer from rheumatism, and that the injury received in service has resulted in disease of right lung. The special examiner, after reviewing the evidence in his possession, recommended that pension be allowed for varicose veins, which in his opinion was the result of rheumatism contracted in the service. The claim was subsequently rejected on the ground that the evidence fails to show that claimant has been disabled from rheumatism since discharge, and that the injury to side was received prior to enlistment. It is true that the claimant was slightly injured in the back some years prior to his enlistment by a fall from a steamboat, but it is equally true that he had entirely recovered, and that he entered the service without any disability, served for more than one year, and then received an injury to side and was subsequently attacked with rheumatism.

In the opinion of this committee the claimant is entitled to a pension if upon medical examination he is found to be disabled from the injury to side, or rheumatism and its results, including the varicosed condition of his leg, and therefore return the bill with the recommendation that it do pass.

The last report of the board of examining surgeons was made in January, 1883, and reported a disability entitling the claimant to a rating of one-half. In view of all the facts in this case your committee report the bill with recommendation that it pass.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 908.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 16, 1884.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 3382.]

*The Committee on Pensions, to whom was referred the bill (H. R. 3382) granting a pension to Albert Brant, have examined the same, and report:*

The facts in the case are fully set forth in the report of the Committee on Invalid Pensions of the House of Representatives during the first session of the present Congress, as follows:

Albert Brant enlisted in Company A, Fourth Ohio Cavalry, September 10, 1861, and was mustered out November 25, 1864. He not only served faithfully, but performed extraordinary service, as appears from the certificates of Hugh Ewing, late major-general United States volunteers, and George Crook, now brigadier-general United States Army, as scout and dispatch carrier. In company with one Wickfield, he was directed by General Crook to take a very important dispatch from Point Rock, on the Tennessee River, to General Sherman, then supposed to be making his way up said river. The task was successfully accomplished after a trip of 170 miles, in skiff, on foot and mule-back, through the enemy's country, after many hardships and many narrow escapes from capture. From this trip and the subsequent campaign following the battle of Mission Ridge he became completely broken down, but, after a few weeks of medical treatment, recovered sufficiently to go on duty, and continued with his command until April 3, 1864, when he was admitted to hospital for treatment for abscess of left axilla, where he remained until the 22d of said month. The record also shows that he was under treatment for diarrhea from August 29 to October 19, 1864.

Brant applied for pension on account of abscess of right side under arm, caused from wearing heavy belts, and ulcerated bowels, the result of diarrhea contracted in service. The claim is legally established, but was rejected, because, in the opinion of the medical officers of the Pension Office, there is now no disability from diarrhea, and there has been no pensionable disability from abscess near right axilla. This opinion is based upon the certificate of the Cincinnati examining board of surgeons, dated April 25, 1883. An examination had May 24, 1882, showed three-fourths disability from chronic diarrhea.

Dr. Condon, claimant's family physician, testifies that he has treated Brant frequently for diarrhea since his discharge, but cannot recollect the number of times he prescribed for him. The case is one in which the disease frequently recurs. A number of claimant's neighbors also testify that Brant is not an able-bodied man, because of trouble in his bowels, enabling him to perform light labor only for a short time. Has not been able since his discharge from service to do the work of a full hand.

From the medical as well as the lay evidence heretofore referred to, the committee are clearly of opinion that, notwithstanding the judgment of the Pension Office to the contrary, Brant is disabled from disease contracted during his long and faithful service, in a degree sufficient to entitle him to relief, and therefore report favorably on the bill, with the recommendation that it do pass, amended, however, by striking out the word "twenty" in line four, and insert instead the word "eight."

In conformity with the above report the bill was passed on May 16, 1884, fixing the rate at $8 per month. It is difficult to understand how this sum was arrived at by reference to the facts in the case. The examination by one surgeon in 1882 rated him only at three-fourths, while the examination of 1883 by a board of three surgeons rates him at nothing. Your committee are, however, of opinion from the evidence in the case that the claimant is to some extent disabled, and that it is the result of his service, and that therefore he should be granted some pension. But it is not the proper province of this committee to fix the rate at which such pension should be granted, not having sufficient evidence nor the machinery to reach a just and equitable conclusion upon that subject.

Your committee, therefore, report the bill with a favorable recommendation, amended, however, by striking out the words "at eight dollars per month" and inserting in lieu thereof the words "subject to the provisions and limitations of the pension laws."

O

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 909.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 16, 1884.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

## REPORT:

[To accompany bill S. 2312.]

*The Committee on Military Affairs, to whom was referred the bill (S. 2312) granting condemned cannon to McPherson Post, No. 16, Grand Army of the Republic of Ohio, have duly considered the same, and submit the following report:*

There are no condemned cannon on hand. None therefore can be donated. See Senate Reports Nos. 248 and 249, Forty-eighth Congress, first session.

Your committee therefore recommend that the bill be indefinitely postponed.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 910.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 16, 1884.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

# REPORT:

[To accompany bill S. 2313.]

*The Committee on Military Affairs, to whom was referred the bill (S. 2313) to remove the charge of desertion from the military record of George W. Rager, have duly considered the same and submit the following report:*

By the act approved July 5, 1884, entitled "An act to relieve certain soldiers from the charge of desertion," ample provision has been made for the removal of all charges of desertion in all meritorious and proper cases. Your committee decline to undertake to examine or consider individual cases, and recommend the indefinite postponement of the bill.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 911.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 16, 1884.—Ordered to lie on the table and be printed.

Mr. PIKE, from the Committee on the District of Columbia, submitted the following

## REPORT:

[To accompany the petition of Zenas C. Robbins.]

*The Committee on the District of Columbia, to whom was referred the petition of Zenas C. Robbins, for reimbursement for expenses incurred for the public as register of wills for the District of Columbia, beg leave to make the following report:*

That the petitioner alleges in his petition that he was appointed register of wills for the District of Columbia by President Lincoln and entered upon the duties of his office the 12th day of August, 1862; that no salary was attached to the position, but the officer received compensation from fees; that no bond was required; that the petitioner soon discovered that no wills had been placed on record from November, 1854, to October, 1861; that the records of the proceedings in the orphans' court, from April, 1846, to October, 1861, had been kept on loose sheets of brown paper; that the attention of the court was called to this, and the court immediately made an order directing the petitioner, in his capacity as register of wills, to record all the probated wills left in the office unrecorded by his predecessor; that the petitioner put upon record 423 wills, covering 598 pages; that the usual fees allowed by law for the record of these wills would amount to $800; that he furnished books for recording the above wills to the value of $300, and that the expense of these was borne by himself.

He further alleges that when the orphans' court made the above order no provision was made for paying the petitioner after he had executed the order, and that he has been guilty of no laches on his part in attempting to have his claim adjusted. He further claims that after the services were performed he presented his claim to Congress, but that no action was taken upon it; that he then laid the proofs of his claim before the legislature of the District of Columbia, and that it took no action upon his claim; that he then presented a petition to the orphans' court branch of the supreme court of the District, but was told that no branch of the court had control of any funds out of which his claim could be paid, though the court thought it just.

The petitioner urges that in Maryland, when it was necessary to order a register of wills to perform some neglected duties of his predecessor, the legislature passed a special act authorizing the orphans' court to order the work done, and further authorizing the levy court to pay the bills when properly vouched by the orphans' court, and he claims that the National Congress hold the same relation to the orphans' court

and levy court in this District as the Maryland legislature did to the two like courts of that State.

This supposed analogy cannot aid him, as it seems to the committee. This work was not authorized by Congress; they were not even requested to authorize it, and it was done by him without any authority of Congress. It appears that the orphans' court or the levy court of Maryland had no authority to order work of this sort, and that the legislature only had. It was the duty of the levy court to pay all the expenses of the orphans' court, and to pay all bills needful for the current expenses of the court and for the proper preservation of its records.

There is no evidence as to whether the claimant resorted to this means to obtain payment or not. If he did it is very strange that the bill was not paid if deemed just by the court. If he did not present it, he is certainly not free from neglect and laches.

The recital in the petition and the proofs presented to the committee present a gross case of neglect of duty by the petitioner's predecessor. He had taken pay for the records of the 423 wills and for the record of the proceedings in the orphans' court, and had not recorded either one or the other. This presents a plain case of gross official neglect of duty. It cannot be urged that it was accidental. The claimant knew this; the court must have known it, certainly when the petitioner brought it to their attention. It is most remarkable that this official, who had been taking the money of the patrons of the court for a particular service, and failing to perform that service, should be permitted to go without any requirement to restore the money he had thus obtained by official neglect and misdemeanor.

It is remarkable that this long and flagrant neglect should not have been known to the court. It appears from evidence that no wills were recorded from November 4, 1854, to October 3, 1861, and no proceedings of the orphans' court were put on record from April 3, 1846, to October 3, 1861, a period of seven years in the one case and fifteen years in the other, and the committee cannot believe that it was not known; and for this petitioner or any other officer of the court not to pursue a remedy which certainly existed to obtain the money which had thus been fraudulently obtained, is certainly gross neglect.

The committee cannot think this petitioner free from neglect and laches for not doing it, and they are not inclined in any way to justify any one who has not done it.

Your committee therefore recommend that the claim be not allowed, and that the petitioner have leave to withdraw.

O

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 912.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 16, 1884.—Ordered to lie on the table and be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

*The Committee on Pensions, to which was referred the petition of Elvira A. Maxey, praying for the passage of an act granting to her arrears of pension, has examined the same, and reports:*

That the petitioner's case was passed on by Congress in 1873, and that in March of that year a special act was passed placing her on the pension-roll at the rate of $8 per month from the date of the approval of said act, and $2 per month additional for one child.

Petitioner now prays that she be granted arrears of pension from March, 1864, the date of her husband's death, to March 3, 1873, the date of the approval of said special act.

As no exceptional circumstances or conditions are made to appear in this case which would seem to demand that it be made special and taken out of the rule which has been appled to so many like cases, the committee is constrained to report it adversely, and recommends that the petition be indefinitely postponed.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 913.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 16, 1884.—Ordered to lie on the table and be printed.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

# REPORT:

*The Committee on Military Affairs, to whom was referred petition of Samuel J. Kinna, of Frederick, Md., for removal of charge of desertion, have duly considered the same, and submit the following report:*

By the act approved July 5, 1884, entitled "An act to relieve certain soldiers from the charge of desertion," ample provision has been made for removing charges of desertion in all proper and meritorious cases. Your committee cannot consider individual cases, and recommend that the prayer of the petitioner be not granted and the committee be discharged.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 914.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 16, 1884.—Ordered to lie on the table and be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

*The Committee on Pensions, to which was referred the petition of Catharine Page, widow of Thomas Page, praying for the passage of an act granting a pension to her for reasons therein stated, has examined the same, and reports:*

That the petitioner applied for a pension by application dated July 12, 1879. The claim was rejected by the Commissioner of Pensions, who, in his communication transmitting the papers in the case to the committee, states that—

The claim stands rejected under the provisions of paragraph 3, section 4693 of the Revised Statutes. The soldier was a member of the militia, and the claim was not filed prior to July 4, 1874.

The provision of the Revised Statutes referred to declares that—

No claim of a State militiaman * * * on account of disability from wounds or injury received in battle with rebels or Indians, while temporarily rendering service, shall be valid unless prosecuted to a successful issue prior to the fourth day of July, eighteen hundred and seventy-four.

The soldier is alleged to have died April 26, 1863. The law above quoted was enacted March 3, 1873. The petitioner made no application for a pension until July 12, 1879, and no reason for the delay is shown by the papers in the case. Nor does any sufficient reason appear in the case for making it special and removing the limitation imposed on it by the said provision of law.

Your committee therefore reports the petition adversely to the Senate, and recommends that it be indefinitely postponed.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 915.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 17, 1884.—Ordered to be printed.

Mr. MILLER, of California, from the Committee on Foreign Relations, submitted the following

## REPORT:

[To accompany bill S. 817.]

The Committee on Foreign Relations, to whom was referred Senate bill 817, "to permit Henry Vignaud, of Louisiana, second secretary of the legation of the United States at Paris, to receive the decoration of the Legion of Honor of France," having considered the same, beg leave to report it back to the Senate with recommendation that it do pass.

Mr. Vignaud, a citizen of the United States, born in Louisiana, has lived for many years in Paris, where he has been the most conspicuous contributor to the *Mémorial Diplomatique*, a well known journal published in that city, and devoted to the discussion of questions of diplomacy and international law. He was appointed by the French Government, on the 14th of August, 1874, to the Legion of Honor. This compliment was paid him, as was set forth in the decree of appointment, in appreciation of services rendered as a publicist. Subsequently, viz, on the 14th of December, 1875, Mr. Vignaud was commissioned second secretary of the legation of the United States at Paris. On the 10th of August, 1881, Mr. Vignaud was made an officer of the Legion of Honor. This was a promotion falling to him in the regular order of things. The reason given for his original appointment was again alleged in the order decreeing his promotion; his services as a publicist were again recognized. As Mr. Vignaud is now in the diplomatic service of the United States, an act of Congress is necessary to enable him to accept the natural sequence of a distinction conferred upon him before he became an officer of the Government.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 916.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 17, 1884.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill S. 1575.]

*The Committee on Claims, to whom was referred the bill (S. 1575) for the relief of Arvah Hopkins, have considered said bill, and report thereon as follows:*

This claim is for (1) rent of plantation at Tallahassee, Fla., used as a pasture for Government animals (mules, horses, and beef cattle) from July 1, 1865, to December 31, 1865, while the Federal troops were in possession of Tallahassee; (2) for rent of houses used for offices by Federal troops and for storing purposes during the years 1865–'66 at Tallahassee, Fla.; (3) for repairs to said buildings, rendered necessary in consequence of damages done while occupied by the officers of the United States Army.

The amount claimed under the first head, viz, rent for pasturage of Government stock, is $400. In support of this claim the claimant, Arvah Hopkins, submits the following bill and sworn statement:

*The United States of America to A. Hopkins, Dr.*

1865.
Dec. 31. For rent of plantation known as "Whitehead Place" as a pasture for Government animals (mules, horses and beef cattle) from 1st of July, 1865, to December 31st, 1865, as per agreement with Lieutenant Hutchins, A. Q. M ..... $400 00

It does not satisfactorily appear that the Government agreed to pay rent for the use of plantation. It probably was occupied by the Government for the purpose of pasturing horses, but the probability is that it was taken possession of by the Government under its war power, and that there was no agreement to pay rent. We therefore recommend that the claim for rent of plantation be disallowed.

Under the second head, viz, claim for rent of houses used for offices and storing purposes, claimant submits in proof of his claim duplicate vouchers for rents aggregating in amount $392.50. These vouchers were given by Quartermaster J. M. Hutchinson and Assistant Quar-

termaster John J. McClellan, respectively, on Form 22, and were duly certified and reported by them. They are as follows:

No. 22.

*The United States of America to A. Hopkins, Dr.*

| Date of purchase. | | Dollars. | Cents. |
|---|---|---|---|
| August 31st, 1865... | For rent of one house with four rooms, one room used for commissary stores, at 25.00 pr month, from Aug't 1st to 31st ..... | 25 | 00 |
| | Two rooms used for Q. M. stores, at 12.50 each pr month, from Aug't 1st to 31st ..... | 25 | 00 |
| | One room used for post head quarters, at 12.50 pr month, from Aug't 1st to 31st ..... | 12 | 50 |
| | | $62 | 50 |

I certify, on honor, that the above account is correct and just; that the services were rendered as stated, and that they were necessary for the public service, and that they are reported on my report of persons & articles for August, 1865.

J. M. HUTCHINSON,
*1st Lt. 99th U. S. C. I. & A. A. Quartermaster.*

Received at ——, the —— of ——, 1865, of —— ——, quartermaster, U. S. Army, —— dollars and —— cents, in full of the above account.

A. HOPKINS.

(Signed in duplicate.)

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No. 22.

*The United States of America to A. Hopkins, Dr.*

| Date of purchase. | | Dollars. | Cents. |
|---|---|---|---|
| September 30th, 1865. | For rent of one house with five rooms, one room used for commissary stores from Sept. 1st to 30th, one month, at 25.00 pr month ..... | 25 | 00 |
| | Two rooms used for Qr. Mr. stores from Sept. 1st to 30th, one month, at 10.00 pr month each..... | 20 | 00 |
| | One room used for post headquarters from Sept. 1st to 30th, one month, at 10.00 pr month ..... | 10 | 00 |
| | One room used as office for Maj. Dewey, Chief of Art'y and Ordnance, from Sept. 1st to 30th, one month, at 10.00 pr month ..... | 10 | 00 |
| | | 65 | 00 |

I certify, on honor, that the above account is correct and just; that the services were rendered as stated, and that they were necessary for the public service, and that they are reported on my report of persons & articles for September, 1865.

J. M. HUTCHINSON,
*1st Lt. 99th U. S. C. I. & A. A. Quartermaster.*

Received at —— the —— of ——, 1865, of —— ——, quartermaster, U. S. Army, —— dollars and —— cents, in full of the above account.

A. HOPKINS.

(Signed in duplicate.)

No. 22.

*The United States of America to A. Hopkins, Dr.*

| Date of purchase. | | Dollars. | Cents. |
|---|---|---|---|
| October 31st, 1865. | For rent of one house with five rooms, one room used for commissary stores, from Octo. 1st to 31st, one month, at 25.00 pr. month | 25 | 00 |
| | Two rooms used for q'rm'r stores from Octo. 1st to 31st, one month, at 10.00 pr. month each | 20 | 00 |
| | One room used for post headquarters from Octo. 1st to 31st, one month, at 10.00 pr. month | 10 | 00 |
| | One room as office for Maj. Dewey, Chief of Art'y and Ordnance, from Octo. 1st to 31st, one month, at 10.00 per month | 10 | 00 |
| | | 65 | 00 |

I certify, on honor, that the above account is correct and just; that the services were rendered as stated, and that they were necessary for the public service, and that they are reported on my report of persons & articles for October, 1865.

J. M. HUTCHINSON,
*1st Lt. 99th U. S. C. I. & A. A. Quartermaster.*

Received at ——, the —— of ——, 1865, of —— ——, quartermaster, U. S. Army, —— dollars and —— cents, in full of the above account.

A. HOPKINS.

(Signed in duplicate.)

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*The United States of America to A. Hopkins, Dr.*

1865.
Dec'r 31.—For rent of plantation known as "Whitehead Place" as a pasture for government animals (mules, horses, and beef cattle) from 1st July, 1865, to Dec'r 31st, 1865, as per agreement with 1st Lieut. W. H. Hutchinson, A. A. Q. M. ..... $400 00

$400 00

STATE OF FLORIDA,
*Leon County:*

Before the subscriber, a justice of the peace in and for said county, personally came Arvah Hopkins, who, being duly sworn, says that —— Hutchins, A. Q. M., did contract with him to pay him for the pasture at the price above stated; that said deponent was called away to the city of New York on special business, and was unable to procure vouchers from said W. H. Hutchinson on account of his leaving the State.

A. HOPKINS.

Sworn to and subscribed before me this 25th day of May, 1866.

EDW. M. WEST, [SEAL.]
*Justice of the Peace.*

*The United States of America to A. Hopkins, Dr.*

1865.
Dec'r 31.—For rent of plantation known as the Whitehead Place for a pasture for government animals (mules, horses, & beef cattle) from 1st July, 1865, to 31st December, 1865, as per agreement with Lieut. Hutchins, A. Q. M ..... 400 00

$400 00

STATE OF FLORIDA,
*Leon County:*

Before the subscriber, a justice of the peace in and for said county, personally came Arvah Hopkins, who, being duly sworn, says that —— Hutchins, A. Q. M., did contract with him to pay him for the pasture at the price above stated; that said deponent was called away to the city of New York on special business, and was unable to procure vouchers from said —— Hutchins on account of his leaving the State.

A. HOPKINS.

Sworn to & subscribed before me this 25th day of May, 1866.

EDW. M. WEST, [SEAL.]
*Justice of the Peace.*

No. 22.

TALLAHASSEE, FLORIDA.

*The United States to A. Hopkins, Dr.*

| | | Dollars. | Cents. |
|---|---|---|---|
| 1865. Dec. 31st. | For rent of house, 1 room, used for storing comy. stores from Nov. 1st, 1865, to Dec. 31st, 1865, inclusive, (2) two months, at $25.00/100 per month | 50 | 00 |
| | For rent of house, 2 rooms, used for storing q'rm'r stores from Nov. 1st, 1865, to Dec. 31st, 1865, inclusive, (2) two months, @ $10.00/100 pr. mo. pr. room | 40 | 00 |
| | For rent of house, 1 room, used as post hd'q'rs, from Nov. 1st, 1865, to Dec. 31st, 1865, inclusive, (2) two months, at $10.00/100 per month | 20 | 00 |
| | For rent of house, 1 room, used as office chief of ord., Dept. of Fla., from Nov. 1st, 1865, to Dec. 31st, 1865, inclusive, at $10.00/100 pr. mo | 20 | 00 |
| | | $130 | 00 |

(Across the face in red ink:) The obligation of the government to pay rent for buildings in captured places being questioned, this voucher is given with the understanding that the payment thereof is subject to the decision of the Quartermaster-General.

I certify that the above account is correct and just; that the services were rendered as stated, and that they were necessary for the public service, and that the services have been reported by me, according to the Army Regulations, as per my report of "Persons and articles" for December, 1865.

JOHN J. McCLELLAN,
*Capt. & Ass't Q'rm'r Vols.*

Received at —— the —— of ——, 1865, of —— ——, assistant quartermaster, U. S. Army, the sum of one hundred and thirty dollars and —— cents, in full of the above account.

[Duplicate.] —— ——.

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No. 22.

TALLAHASSEE, FLA.

*The United States to A. Hopkins, Dr.*

| | | Dollars. | Cents. |
|---|---|---|---|
| 1866. Jany. 31st. | For rent of house, 1 room, used for storing com'y stores from Jan'y 1st, 1861, to Jany. 31st., 1861, inclusive, one (1) month, at $25.00/100 per month | 25 | 00 |
| | For rent of house, 2 rooms, used for storing qr. mr. stores, from Jany. 1st, 1886, to Jany. 31st, 1866, inclusive, (1) one month, at $10.00/100 pr. mo. per room | 20 | 00 |
| | For rent of house, 1 room, used for post hd. qrs., from Jany. 1st, 1866, to Jany. 31st, 1866, inclusive, one (1) month, at $10.00/100 per mo. | 10 | 00 |
| | | $55 | 00 |

(Across the face in red ink:) The obligation of the government to pay rent for buildings occupied in captured places being questioned, this voucher is given with the understanding that the payment thereof is subject to the decision of the Quartermaster-General.

I certify that the above account is correct and just; that the services were rendered as stated, and that they were necessary for the public service, and that the services have been reported by me, according to the Army Regulations, as per my report of "Persons and articles" for January, 1866.

JOHN J. McCLELLAN,
*Capt. and Asst. Q'rm'r Vols.*

Received at ——— the ——— of ———, 1865, of ——— ———, assistant quartermaster, U. S. Army, the sum of fifty-five dollars and ——— cents, in full of the above account.

——— ———.

[Duplicate.]

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No. 22.

TALLAHASSEE, FLORIDA.

*The United States to A. Hopkins, Dr.*

| | | Dollars. | Cents. |
|---|---|---|---|
| 1866. Febry. 28th. | For rent of house, 1 room, used as post h'd'qrs from Febry. 1st, 1866, to Febry 28, 1866, inclusive, one (1) month, at $10 per month | 10 | 00 |
| | | $10 | 00 |

(Across the face in red ink:) The obligation of the government to pay rent for buildings occupied in captured places being questioned, this voucher is given with the understanding that the payment thereof is subject to the decision of the Quartermaster-General.

I certify that the above account is correct and just; that the services were rendered as stated, and that they were necessary for the public service, and that the services have been reported by me, according to the Army Regulations, as per my report of "Persons and articles" for February, 1866.

JOHN J. McCLELLAN,
*Capt. and Asst. Q'rm'r Vols.*

Received at ——— the ——— of ———, 1865, of ——— ———, assistant-quartermaster, United States Army, the sum of ten dollars and ——— cents, in full of the above account.

——— ———.

[Duplicate.]

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No. 22.

TALLAHASSEE, FLA.

*The United States to A. Hopkins, Dr.*

| | | Dollars. | Cents. |
|---|---|---|---|
| 1866. March 15th. | For rent of house, 1 room used as Post h'dq'rs. from M'ch 1st, 1866, to M'ch 15, 1866, inclusive, (15) fifteen days, at $10$\frac{00}{100}$ per month.. | 5 | 00 |
| | | $5 | 00 |

(Across the face in red ink:) The obligation of the government to pay rent for buildings occupied in captured places being questioned, this voucher is given with the understanding that the payment thereof is subject to the decision of the Quartermaster-General.

I certify that the above account is correct and just; that the services were rendered as stated, and that they were necessary for the public service, and that the services have been reported by me, according to the Army Regulations, as per my report of "Persons and articles" for March, 1866.

JOHN J. McCLELLAN,
*Capt. and Asst. Q'rm'r Vols.*

Received at ——— the —— of ———, 1865, of ——— ———, assistant quartermaster, U. S. Army, the sum of five dollars and ——— cents, in full of the above account.

——— ———.

[Duplicate.]

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*The United States to A. Hopkins, Dr.*

For cash paid T. J. Rawles and H. B. Fitts, as follows:

| | |
|---|---|
| June 1, 1866. | |
| To making 580 lbs. iron rods and plates, at 15 cents | $87 00 |
| " making 22 lbs. nuts and 24 window-fastenings | 15 20 |
| " making and putting in door-frames and shutters | 20 00 |
| " raising brick walls and repairing door-frames | 35 00 |
| " repairing floor (5.00) and furnishing 300 feet lumber (15.00) | 20 00 |
| " furnishing 3 boxes glass and putty for same | 33 00 |
| " putting in glass (10.00), repairing blinds (5.00), and repairing sash (3.00) | 18 00 |
| " putting on 1 lock and laying floor to back porch | 16 00 |
| " furnishing 400 feet lumber for flooring | 24 00 |
| " furnishing joists and nails for same | 5 00 |
| " fixing 1 door and furnishing 1 bolt | 2 00 |
| " laying floor on front porch | 40 00 |
| " hand railing and banisters | 30 00 |
| " making 6 columns | 30 00 |
| " facing plates (5.00) and nails (5.00) | 10 00 |
| " hanging shutters and putting rods through building | 34 00 |
| " lumber and posts for fence | 16 00 |
| " making gates and putting up fence | 12 00 |
| " iron for rods and plates, &c., in building | 73 71 |
| (Duplicates.) | $520 91 |

STATE OF FLORIDA,
*County of Leon:*

Personally appeared before me, E. M. West, a justice of the peace in and for said county, A. Hopkins, who says that the above account is just and true, and that the repairs were necessary in consequence of damage done to the building while occupied by the officers of the United States Army, & for which he has received no pay.

A. HOPKINS.

[5-cent internal-revenue stamp, canceled.]

Sworn to and subscribed before me this 21st day of June, A. D. 1866.

EDW. M. WEST, [SEAL.]
*Justice of the Peace.*

STATE OF FLORIDA,
*County of Leon:*

Personally appeared before me, E. M. West, a justice of the peace in and for said county, John L. Taylor, who says that he was employed in the Commissary Department at the time the building was occupied by the United States authorities, and that the walls, &c., were cracked in consequence of the immense weight of government stores put in the building, and that Mr. Hopkins complained of it at the time, but the officers could not remedy the matter, as there were no other suitable buildings to be had; and he further says that he has frequently seen the United States soldiers occupying the second and third floors, carrying off the fence to burn.

JNO. L. TAYLOR.

[5-cent internal-revenue stamp, canceled.]

Sworn to and subscribed before me this 21st day of June, A. D. 1866.

EDW. M. WEST, [SEAL.]
*Justice of the Peace.*

ARVAH HOPKINS.

STATE OF FLORIDA,
*Leon County:*

I, Council A. Bryan, clerk of the circuit court of the county aforesaid, do hereby certify that Edw'd M. West, whose genuine signature appears to the foregoing and within certificate, is, and was at the time of signing the same, a justice of the peace in and for said county of Leon, duly commissioned and qualified, and all his official acts as such are entitled to full faith and credit.

Witness my hand and seal of office, this 7th day of July, A. D. 1866.

[SEAL.] C. A. BRYAN,
*Clerk Leon Circuit Court.*

[5-cent internal-revenue stamp, canceled.]

It thus appears that the government through its proper officers entered into these several contracts with Mr. Hopkins, the claimant, to rent certain buildings of him at specified prices. The buildings were occupied by the military authorities for the time stated in the vouchers, but the money stipulated was not paid.

The act of February 21, 1867 (vol. 14, U. S. Stats. at Large, page 397), provides that the act of July 4, 1864, "shall not be construed to authorize the settlement of any claim for supplies or stores taken or furnished for the use of or used by the armies of the United States, nor for the occupation of or injury to real estate, nor for the consumption, appropriation, or destruction of or damage to personal property by the military authorities or troops of the United States, where such a claim originated during the war for the suppression of the Southern rebellion in a State or part of a State declared in insurrection by the proclamation of the President of the United States, dated July 1, 1862, or in a State which, by an ordinance of secession, attempted to withdraw from the United States Government." On April 5, 1866, the President, by proclamation, declared that the insurrection in the State of Florida was at an end.

Under said act of February 21, 1867, the departments have refused to pay any claims originating in the insurrectionary States from the beginning of the insurrection to the date of the President's proclamation declaring the insurrection at an end, whether such claims arose under contract or otherwise. And thus all persons whose just claims are based upon an express contract between themselves and the proper officers of the government, made within the limits of the insurrectionary States within the period above named, are forced to appeal to Congress for relief.

Your committee are of the opinion that the claimant is entitled to be paid the amount of rent specified in the vouchers as hereinbefore set forth, to wit, the sum of $392.50, and recommend payment of this amount.

Your committee do not think that the claimant is entitled to compensation for repairs alleged to be rendered necessary in consequence of damages done while occupied by the officers of the United States Army, which repairs claimant places at the cost to him of $520.91.

Your committee therefore report back said bill as amended, and, when so amended, recommend its passage.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 917.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 17, 1884.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill S. 378.]

*The Committee on Claims, to whom was referred the bill (S. 378) for the relief of Thomas B. Wallace, have carefully considered the same, and report as follows:*

This claim has been before Congress many years. It passed both Houses of the Forty-second Congress, but was vetoed by President Grant. An adverse report was made upon the claim by the House Committee on War Claims of the Forty-seventh Congress, which your committee adopts:

Mr. GEDDES, from the Committee on War Claims, submitted the following report, to accompany bill H. R. 960:

*The Committee on War Claims, to whom was referred the bill (H. R. 960) for the relief of Thomas B. Wallace, report as follows:*

Thomas B. Wallace petitions for relief, averring that he has always been a loyal citizen of the United States, and resided in the city of Lexington, Mo.; that on the 13th of September, 1861, he was the owner of a valuable and well-furnished dwelling-house in said city, estimated to be worth $11,252; that on said day the city of Lexington was besieged by Confederate forces under Maj. Gen. Sterling Price, then engaged in waging war against the United States; that said city was being defended by Col. J. A. Mulligan, commanding the post, and an officer in the United States military service, and stationed in said city for its protection and defense. Claimant further states that a few days prior to September 13, 1861, the military forces under General Price took forcible possession of his said house, planted two batteries on the premises, and lined his house with sharpshooters, which "rendered it necessary to destroy said dwelling-house in order to protect and defend the lives of the soldiers then fighting in the service of the United States, *in defense of said city;* that Colonel Mulligan, for the purpose aforesaid, in the exercise of a proper and patriotic duty, destroyed said house.

The evidence in this case clearly shows that claimant states his case fairly. The facts as stated are fully proved. The only question in the least embarrassing, or about which any diversity of judgment could arise in the case, is as to the rights of the claimant and the duty of the Government to him growing out of the facts stated. This case is one of a large class, involving many millions of dollars in the aggregate, and if the policy urged in behalf of this claimant should be adopted by Congress it would open the door to a flood of claims alarming in amount. It should be stated that your committee have at the present session of Congress determined the principles of law, public policy, and good conscience that ought to be applied to a case of this kind, and have submitted a report, No. 536, on that subject, to accompany H. R. 918, to which reference is made to avoid repetition here. This case calls more strongly for the application of the principles settled in that report. In that case it was attempted to avoid the application of principles that would defeat relief, and great stress and reliance were placed upon the able and exhaustive favorable report made in the same case by Senator Howe. That report is also filed in this case as an authority for this

claimant. But in that report Senator Howe endeavors to answer the reasoning of President Grant in his veto message in that case, and in doing so says:

"To this it may be replied that the act passed for the relief of Dr. Best does not provide for the payment of property unavoidably destroyed. On the contrary, it clearly discriminates against and disclaims liability for such payment. The injury done to Best's house by firing upon it while in possession of the enemy *was deemed to be unavoidable.* For such injury the committee held the Government was not obliged to make compensation. What the committee deemed to be the amount of such damages it deducted from the claim, and only reported for payment that which was supposed to be equal to the value of the property which was deliberately destroyed by the military authorities to promote the security of the garrison."

In this case the city of Lexington was being defended. All the citizens with all their property were in imminent peril. All actual dangerous and deadly conflict of arms was being waged. In this emergency self-preservation demanded the destruction of this property. The principles which are applicable and should govern this class of cases are so pertinently stated in a report made by Senator Hoar in the Senate during the Forty-fifth Congress that your committee feel at liberty to quote the following extract:

"There are two classes of cases in which government, for public ends, deprives the citizen of his property either in war or peace. One is the exertion of the right of eminent domain by which property is taken for public use. This may be for a military use as well as for a peaceful one, as to build a fort or ship, or supply an army. It is, under our Government exerted by the legislative authority, either directly or by delegation. The other is the right of necessity, where property is used or destroyed to avert an imminent danger or supply an immediate and pressing necessity of such a character that private interests must yield to it. Of this class are the destruction of dwellings to prevent the spread of a fire, the building of bulwarks on private ground, and entering houses to prevent felonies or arrest offenders, and the like. We think the error of those persons who insist on the obligation of government to make compensation in cases like the present is in placing them in the first of these divisions. They seem to us to belong to the second. The conflagration of Moscow, the laying Holland under water by destroying the dikes, the destruction of Athens when the people took to their ships, were not process of law or exercises of the right of eminent domain. They were the acts of self-defense of nations in a death-struggle, justified only by that overwhelming necessity of self-preservation which for the time being exonerates individuals and nations from all legal restraint whatever."

This claim under consideration was passed during the Forty-second Congress, but was returned by the President without his approval, with his reasons therefor, as follows:

"*To the Senate of the United States:*

"I have the honor to return herewith Senate bill No. 569, an act entitled 'An act for the relief of Thomas B. Wallace, of Lexington, in the State of Missouri,' without my approval.

"This claim, for which eleven thousand two hundred and fifty dollars are appropriated by this bill, is of the same nature and character as the claim of Dr. J. Milton Best, which was returned to the Senate on the 1st instant without my signature.

"The same reasons which prompted the return of that bill for consideration apply in this case, which also is a claim for compensation on account of the ravages of war, and comes under the same general principle of both international and municipal law, that all property is held subject not only to be taken by the government for public uses—in which case, under the Constitution of the United States, the owner is entitled to part compensation—but also subject to be temporarily occupied, or even actually destroyed, in times of great public danger, and when the public safety demands it; and in the latter case governments do not admit a legal obligation on their part to compensate the owner.

"The temporary occupation of, injuries to, and destruction of property caused by actual and necessary military operations are generally considered to fall within the last-mentioned principle; and if a government makes compensation under such circumstances, it is a matter of bounty rather than of strict legal right. If it be deemed proper to make compensation for such losses, I renew my recommendation that provision be made by general legislatiod for all similar cases.

"U. S. GRANT.

"EXECUTIVE MANSION, *June* 7, 1872."

In view of all the considerations bearing upon this claim, your committee feel called upon to follow their action heretofore, and therefore report the bill adversely, and recommend that it lie upon the table, and that the report be printed.

Your committee report back the bill, and recommend that it do not pass.

ONGRESS, } SENATE. { REPORT
ession. } { No. 918.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 17, 1884.—Ordered to be printed.

EFFIELD, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill S. 165.]

*mmittee on Claims, to whom was referred the bill (S. 165) for the of William H. Gray, have considered the same, and submit the fol- g report:*

FACTS.

Commissioner of Internal Revenue under date of December 21, irected Internal-Revenue Collector R. M. Kelly, of the seventh ion district of Kentucky, to make a special examination of the dis- s in that district, and to report thereon. Collector Kelly wrote nmissioner of Internal Revenue, December 27, 1866, that owing to ence of his principal deputy he should have to appoint Mr. Gray ute the order.

his time, according to the testimony of Kelly, Gray was a special or of distilled spirits, and made the examination as a special collector.

discharged the duties of his appointment to the satisfaction of or Kelly.

rding to the testimony of Mr. Gray, he was employed in this from December 28, 1866, to February 16, 1867. There were counties in the district, and Gray claims to have visited one d and five distilleries, and that his personal expenses in execut- s duty were $444.

ctor Kelly certified that he believed that the account was mod- nd just.

e was some mistake in the form of the account rendered by the nt to Collector Kelly, and Kelly returned the accounts to be ut on a regulation blank. This occasioned delay, and in the mean elly rendered his account to the Department.

Hon. B. H. Bristow, Secretary of the Treasury, wrote Gray, date of September 2, 1875, that "While the Department recog- he justice of compensating for your services, there is at this time ropriation available for the purpose."

collector of internal revenue for the seventh district received com- ion from September 1, 1866, to April 6, 1870, $19,981.

complainant puts in the affidavit of one Noel, who says that at imes during the period Gray was employed he hired from him a horse and buggy at the rate of $4 per day.

OPINION.

Section 10 of the act approved June 30, 1864, incorporated into section 3148 of the Revised Statutes, provides that "each collector shall be authorized to appoint, by an instrument of writing under his hand, as many deputies as he may think proper, to be by him compensated for their services."

It was alleged by the Commissioner of Internal Revenue, D. D. Pratt, that the compensation of the collector of internal revenue was ample to enable him to pay the claim of Mr. Gray, and that similar instructions as those given to Collector Kelly were given to other internal-revenue collectors, which were executed by the collectors and paid for by them out of the compensation allowed to collectors.

It is claimed by Mr. Gray that Kelly was compensated under section 25 of the act of 1864, section 3145 of the Revised Statutes, by a fixed salary at the rate of $3,000 per annum, which appears to have been the fact, and that his expenses incurred in the execution of his office were allowed in addition to his salary, and that the expenses incurred and the services rendered by Gray in examining these distilleries were not included in the allowances of Kelly.

But it is the opinion of the committee that there is nothing in the section referred to to vary the case. They therefore report adversely to the claim.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 919.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 17, 1884.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill S. 1685.]

*The Committee on Claims, to whom was referred the bill (S. 1685) entitled "A bill for the relief of Edmund Wolf," have considered the same, and make the following report thereon:*

The claim is for the sum of $33,000 for stock, fixtures, tools, patterns, flasks, &c., in the Wrightsville Foundry, in York County, Pennsylvania, the property of Edmund Wolf, the claimant, which was destroyed under the following circumstances:

Wrightsville is on the west side of the Susquehanna River and Columbia on the east side; said two towns were at the time the above property was destroyed connected by a wooden bridge across said river.

On the 28th day of June, A. D. 1863, Major-General Couch, commanding the Department of the Susquehanna, learning that a portion of the Confederate forces was approaching said town of Wrightsville with the intention of crossing the river at that place, in order to join a larger force which two days later engaged our army on the field of Gettysburg, ordered said bridge to be burned in order to prevent its being used by the Confederate forces. The order was obeyed, and the bridge was burned, but in its burning fire was communicated to some buildings standing near the western end of said bridge, and by these communicated to claimant's foundry, which was totally consumed. For this property so destroyed the claimant demands the sum of $33,000.

The loss in this case was purely an incident to the ravages of war. General Couch, in order to check the advance of a hostile force and to save the State from still greater devastation, ordered the bridge to be burned, and in doing so he acted from a strict military necessity, and for that act the Government is not liable.

Your committee therefore recommend that the claim be not allowed, and that the further consideration of the bill be indefinitely postponed.

C

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 920.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 17, 1884.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill S. 1800.]

*The Committee on Claims, to whom was referred the bill (S. 1800) for the relief of Edward Corning, have considered the same, and report thereon as follows:*

The claimant was an assistant quartermaster of volunteers in the United States Army from October 16, 1862, to June, 1865, when he resigned.

At the time of his resignation he forwarded his accounts to the proper Departments, requesting that if any differences or discrepancies should appear in said accounts he might be notified of the same at once. He heard nothing further of the matter until 1869, when he received notice from the Third Auditor of the United States Treasury that his bondsmen were about to be proceeded against to make up for an alleged shortage in his accounts.

Large amounts were stopped in the settlement of his accounts, because, as was alleged by the Third Auditor, they were not in accordance with law or the regulations of the War Department.

The complainant was compelled to employ, and did employ, agents and attorneys to procure additional evidence as to the correctness of his accounts, and to aid him in making a settlement with the Third Auditor. He alleges that the additional expense he was thus put to amounted to $2,000, and he insists that the Government ought to pay him this sum. If his accounts had been rendered according to law and the regulations of the War Department, it would not have been necessary for him to go to this additional expense. Every officer of the United States ought to be at the expense of setling his own accounts with the Government. The claimant complains because the Government did not at once take up his accounts for settlement when rendered, upon his resignation in 1865. There is nothing to show that they were not taken up for settlement in their order and settled as soon as practicable. We can see no ground upon which the claimant is entitled to be reimbursed for the moneys expended by him for payment of counsel and other necessary expenses in the settlement of his accounts with the Government.

We therefore recommend that the claim be not allowed, and that the further consideration of the bill be indefinitely postponed.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 921.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 18, 1884.—Ordered to be printed.

Mr. LAPHAM, from the Committee on Patents, submitted the following

# REPORT:

[To accompany bill S. 1296.]

*The Committee on Patents, to whom was referred the bill (S. 1296) for the relief of Henrietta H. Cole, have had the same under consideration, and submit the following report:*

"Mrs. Cole is the inventor of an improvement in fluting-machines, which was patented in 1866, and upon which a patent was granted for an improvement April 25, 1871. The committee are of opinion that the invention is valuable and useful.

"Owing to the financial condition of Mrs. Cole she has not realized much profit from her machine. She made a contract with C. H. Stevens, secretary of Blake & Johnson, to manufacture 250 of said machines, at $13 per machine. After paying for the manufacture and sale of said machines she realized only a small amount, say $2.50 a machine. This transaction covered a period of two years.

"In 1868 she sold he interest in the patent to one William Bennett, who agreed to pay her the sum of $11,000 and a royalty of $3 on each machine sold during the life of the patent. Bennett executed his obligations to Mrs. Cole for the said patent, which were never paid.

"After a suit against Bennett, Mrs. Cole had to purchase the patent back from Bennett, paying him the sum of $300 therefor. This resulted in heavy losses to the petitioner in costs, attorney fees, and other expenses.

"Litigation growing out of the sale of the patent, as above, continued until the patent for the improvement was issued in April, 1871. George Harris then manufactured 500 machines for her, which she sold, and realized $1 profit on each. The Bickford Knitting Machine Company made 500 for her, on which she received, after cost of making and selling, $125. She also received $500 royalty from Messrs. Towle & Unger. Messrs. Clark, Wilson & Co. had charge of the sale of the machines, who claimed a loss of $3,000, on the ground that too much was paid for the manufacture of them, for which they brought suit, running the petitioner to cost and expenses.

"Petitioner testifies on oath that after deducting all expenses, costs, &c., she has received very little, if anything, for her invention in the way of profits. It is also true that Mrs. Cole has been annoyed by infringements upon her patent, which have cost her a great deal of money as well as loss of time. She has one suit now pending in New York for infringing her patent."

In the foregoing views from the House report we concur. Your committee therefore report back the bill and recommend its passage.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 922.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 19, 1884.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 2077.]

The Committee on Pensions, to which was referred the bill (S. 2077) granting a pension to M. A. Jones, has examined the same, and reports that it does not appear from the evidence in this case that the petitioner incurred any disability while in the line of duty in the military service of the United States.

The bill is therefore reported adversely, and with a recommendation that it be indefinitely postponed.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 923.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 19, 1884.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 1869.]

The Committee on Pensions, to whom was referred the bill (S. 1869) granting a pension to Kate C. McDougal, widow of the late Commander Charles J. McDougal, has examined the same, and reports that the Commissioner of Pensions, in his letter transmitting the papers in the case to the committee, states "that the widow was pensioned in 1881, at $30 per month, from April 20, 1881, the date of filing her claim, with $2 per month increase on account of a child under the age of sixteen years."

The bill referred to the committee proposes an increase of the above rate to $50 per month; but no facts or circumstances appear in the proofs submitted to the committee which call for the passage of a special act making this case an exception to the general rule established by the law in pursuance of which Mrs. McDougal now receives the pension above described.

The bill is therefore reported to the Senate with the recommendation that it be indefinitely postponed.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 924.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 19, 1884.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 5735.]

The Committee on Pensions, to which was referred the bill (H. R. 5735) granting a pension to Margaret Daily, has examined the same, and reports that an examination of the papers, records, and proofs submitted to the committee in support of the bill justifies a concurrence in the report of the Committee on Invalid Pensions of the House of Representatives, made to that body, and which is here quoted, as follows, viz:

That Margaret Daily is the widow of Thomas H. Daily, who enlisted as a private in Company D, Twenty-second Regiment Indiana Volunteer Infantry, on the 6th day of July, 1861, and served through all the intermediate grades to that of captain of said company, which position he held at the time of his honorable discharge from the military service of the United States, September 14, 1864.

On the 3d day of September, 1881, the claimant filed her application for a pension, on the ground that the said Thomas H. Daily, while in the military service of the United States and in the line of his duty, contracted hemorrhoids, superinducing fistula in ano, resulting in his death, which occurred on the 3d day of May, 1881. This claim was rejected June 29, 1882, on the ground that the disease of which the soldier died was not contracted in the military service of the United States.

The records of the Adjutant-General's Office show that Thomas H. Daily was mustered into the military service of the United States as second lieutenant Company D, Twenty-second Regiment Indiana Volunteers, June 30, 1862; July and August he is reported present, and so borne to October 31, 1862; November 25, 1862, mustered as first lieutenant; February 28, 1863, as captain; December 31, 1862, detailed on General Jeff. C. Davis's staff, and so borne to April 30, 1863; May and June, 1863, present for duty; July and August, 1863, not on file; September and October, 1863, on detached service on General Davis's staff since July 2, 1863, and so borne to August 31, 1864.

General Jeff. C. Davis, commanding First Division, Twentieth Army Corps, in accepting the resignation of Captain Daily, August 1, 1864, says:

"This officer has won his promotion from the ranks, and has often distinguished himself in battle. He has served on my staff at different times with credit to himself. He seems now to have thoroughly made up his mind to resign from the service, and urges his resignation. His health has not been very good since the battle of Stone River."

Anthony R. Ravencraft, captain Company I, Twenty-second Regiment Indiana Volunteers, says:

"That Capt. Thomas H. Daily, by exposure and fatigue at the battle of Chickamauga, brought on piles; visited him at Gen. J. C. Davis's headquarters soon after the battle, and found him very much prostrated from the effects thereof. Captain Daily was then on General Davis's staff; met him frequently afterward; he had not recovered, and frequently complained of fistula."

Alex. M. Rutherford, private Company D, Twenty-second Regiment Indiana Volunteers, corroborates the statement of Captain Ravencraft, and adds:

"That said affection continued until said soldier was mustered out; subsequently resulting in fistula, from which he suffered until his death, May 3, 1881."

Dr. Samuel M. Work, of Hot Springs, Ark., says:

"Capt. Thomas H. Daily came under his professional treatment in December, 1864; had a severe case of hemorrhoids, both internal and external, which continued until

January, 1877; thinks fistula developed about 1867; that he never recovered from fistula in ano."

Dr. Will. F. Work, of Jeffersonville, Ind., treated Captain Daily for said affections from April, 1877, to 1879.

Dr. James E. Oldham, of Charlestown, Ind., was Captain Daily's family physician from January, 1879, to the time of his death, May 3, 1881. He says:

"That in January, 1879, soldier applied to him to treat him for hemorrhoids and fistula in ano, but his general health was so bad that he did not deem it advisable to recommend any but palliatives and tonics for his general condition; that about November 25, 1879, there were well-defined evidences of cerebro-spinal softening, which continued until and was the immediate cause of his death; that it is his (affiant's) opinion that hemorrhoids and fistula in ano, by their depreciating effects upon the vital force, acted as prime causes in the production of the cerebro-spinal troubles of which he died."

Your committee find from the evidence as given above that the disease contracted by this soldier in the distinguished military service rendered resulted in his death, and therefore recommend the passage of the bill.

Your committee, approving this statement of the case, reports the bill to the Senate, and recommends its passage.

C

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 925.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 19, 1884.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4094.]

The Committee on Pensions, to which was referred the bill (H. R. 4094) granting a pension to Henry Alden, has examined the same, and reports that the said Alden made application in due form for a pension. The claim was rejected. The Commissioner of Pensions, in his letter transmitting the papers in the case to the committee, says:

The claim has been rejected on the ground that no pensionable degree of disability has existed from alleged cause since the date of discharge.

In the judgment of the committee this result was not warranted by the testimony in the case. The Committee on Invalid Pensions of the House of Representatives made the following statement of the case in its report to that body, viz:

Henry Alden enlisted in Company E, Eighteenth Massachusetts Volunteers, May 1, 1861, and was discharged for disability October 30, 1862. He contracted a severe cold in December, 1861, while sitting on the ground mending tents, for which duty (having been a sailor) he had been detailed. The cold settling down into his back and kidneys induced kidney trouble. He also suffered a sunstroke in September, 1862, which disabling him from further service, he was sent to hospital at Fairfax Seminary, Virginia, from which he was discharged. The evidence in this case is as follows:

Edwin Brown, of Boston, says he remembers well that at Hall's Hill, in December, 1861, soldier complained of trouble in his back, and which he called kidney complaint. On the march from Harrison's Landing to the Chickahominy he complained of the same trouble, and that whenever he had anything to lift affiant had to help him. Distinctly remembers of his suffering from severe pain in the back, which he said felt as if a knife was entering his back. About the middle of September, 1862, he had an ill turn, which was said to have been a sunstroke. Never saw him after this time until the war was over.

S. N. Gifford, James Wilde, Thomas Chandler, Josiah Peterson, and others, residents of Duxbury, Mass., testify that previous to enlistment he was a well man, and that since his discharge he has been unable to do full day's work by reason of disability.

Dr. James White, of Duxbury, certifies:

"Since the soldier returned from Army he has often spoken of his disease and of its interference with his ability to earn a living. The suffering has increased from year to year, and is now nearly constant. Has known soldier for about forty years."

Dr. Alexander Jackson, examining surgeon, certifies:

"Found patient complaining mostly of pain and lameness of back, which compelled him to move about in a stooping posture. Is unable to stand straight. The pain is in the lumbar region, affecting the kidneys; he is also frequently troubled with dizziness and pain in head, confusing him, particularly in hot weather."

The case developed in the evidence is stronger and clearer than presented in that report, and in the judgment of your committee the bill ought to be passed. It is therefore reported with a recommendation in favor of its passage.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 926.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 19, 1884.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 2440.]

The Committee on Pensions, to which was referred the bill (H. R. 2440) granting a pension to Usebus Sweet, has examined the same, and reports that an examination of the papers, records, and proofs in this case verifies the substantial correctness of its statement in the report submitted to the House of Representatives by the Committee on Invalid Pensions of that body, and which is as follows, viz:

It appears from the evidence on file in the case that the petitioner was a private in Company G, One hundred and fifty-seventh New York Volunteers; enlisted August 27, 1862; discharged December 28, 1862; and filed declaration for pension November 24, 1876, alleging an injury to spine by a soldier falling upon him and striking him with the breech of his gun, he being asleep in his tent at the time at Arlington Heights, Virginia, and the occasion of the accident being the hurry incident upon a midnight alarm on the night of October 6, 1862.

The Pension Office rejected the claim on the ground, "Rejection on the record; disability existed prior to enlistment."

Milton B. Jarvis M. D., family physician (filed February 1, 1878), swears that he has known claimant from boyhood; worked for him at time of enlistment, and was entirely sound at that time.

Abraham Tuttle, captain of claimant's company (filed February 1, 1877), swears that he was raised with claimant and associated with him constantly; he was entirely sound at his enlistment. He also remembers the night that claimant did not respond at the midnight alarm; afterwards saw him in his tent in great pain; suffered so for several days, when affiant assisted in placing him in ambulance and had him sent to hospital. Six weeks after he signed certificate for claimant's discharge.

George Daily and John J. McMasters, tent-mates, swear they were present and saw the claimant receive the injury to his spine.

H. C. Hendricks, M. D., surgeon of the regiment (One hundred and fifty-seventh), filed February 1, 1878, testifies that he treated claimant for his injury; has personal knowledge of the occurrence, and of claimant's transfer to the hospital.

Dr. Milton B. Jarvis also testifies that he has treated claimant continuously from his discharge to the present for a disease of the spine, the result of an injury received while in the service. "Claimant came to affiant immediately on his return from the Army with spinal irritation, severe; affiant treated him for six weeks, and at intervals ever since."

The Adjutant-General reports, dated October 31, 1862, "Absent, sick in Green street hospital, Alexandria, Va.; November and December, 1862, absent; sent to hospital at Alexandria October 12." Muster-out roll of company, dated July 10, 1865, reports him "discharged for disability, January 11, 1863, at Washington, D. C."

Certificate of disability reports him "discharged at hospital, Third Corps, December 28, 1862," which date is accepted as correct.

The certificate of disability on which he was discharged says: "Disease of mitral valve, irritatio spinalis, produced by a fall at Hamilton, N. Y., before enlistment."

The board of examining surgeons at Syracuse, N. Y., June 6, 1877, could find no disability for which to rate him; they certify: "We cannot discover physical evidence of spinal disease, yet we may be wrong."

Your committee are of the opinion, notwithstanding the last certificate of the examining surgeons, that the petitioner did receive an injury to his spine in the service; the evidence is direct upon that point. The record shows that he was treated in hospital and discharged for the disability. His family physician testifies to soundness at enlistment, and to treatment continuously almost since discharge. We therefore report favorably upon the prayer of your petitioner, and recommend the passage of the bill "granting a pension to Usebus Sweet."

Your committee, concurring in this presentation of the case, reports the bill to the Senate with a recommendation that it do pass.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 927.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 19, 1884.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 452.]

The Committee on Pensions, to which was referred the bill (H. R. 452) granting a pension to Frederick Corfe, has examined the same, and reports that the record and proofs in the case amply sustain the report made to the House of Representatives by the Committee on Invalid Pensions of that body. Said report is as follows, viz:

The committee find, from an examination of the papers, that Frederick Corfe was acting staff-surgeon of the Second Cavalry Division, Department of the Cumberland.

The petitioner claims a pension on account of an alleged injury received at Selma, Ala., about April 2, 1865, while establishing a hospital for the division. He alleges that he was struck by a spent cannon-shot, causing a contusion and producing caries and disease of the left femur.

The claim was rejected at the Pension Office August 3, 1881, on the ground "no record," and that the claimant declared his inability to show that the injury was received in the service.

In consideration of the service that he was performing at the time, it would naturally be difficult for him to secure testimony in accordance with the strict rulings of the Pension Office. The claimant states, in an affidavit filed November 20, 1879, that the injury was received while tying his horse, and that there was no one near at the time, so far as he knew, who saw the occurrence.

In an affidavit filed October 17, 1879, he alleged that he had sent his orderly to the rear to bring up the train at the time his injury was received.

Col. J. B. Bingham, First Wisconsin Volunteers, testifies that claimant was sound at the time that he was discharged from said regiment, in October, 1864, the termination of his first service.

O. A. Caswell and L. D. Layton, citizens of Mount Sterling, Wis., testify substantially to the same

W. A. Stearns and Edward Lawler, privates of Company K, First Wisconsin Cavalry, testify that claimant was struck by a cannon-ball at Selma, Ala., April 2, 1865, and that their knowledge is derived from seeing him limp and hearing him telling the circumstances of its occurrence.

Dr. D. W. Curley testifies that about July 2, 1865, he examined claimant, and found him suffering from a contused wound of the left thigh, the same having an erysipelas form, causing lameness, and in the fall of 1866 sloughing and caries of the femur, and its condition since has been very bad.

Stephen H. Ellis and Hiram Ellis, dentists, of Ontario, Wis., testify that claimant on his return from the war was lame from the effects of a wound, and was confined to his bed by sloughing of the left thigh and disease of the left femur, producing caries, several bones becoming detached, and has suffered continuously until the present.

Dr. R. M. Willer, in an affidavit filed November 8, 1878, testifies that in July, 1865, claimant complained of a wound in the left thigh and walked lame; subsequently came to his office, at which time the wound appeared to be somewhat contused, and complained, during the succeeding three years of his acquaintance, of the wound in his leg.

Dr. Isaiah Roberts, in an affidavit of December, 1872, testifies to having treated claimant for wound of left thigh from December 21, 1866, until May 25, 1867.

The pension examining surgeon certifies to the disability of the claimant, and states that in consequence of the inflammation the muscles and tendons on the anterior part of the thigh are adhered in such manner as to considerably interfere in the extension of the leg.

Your committee consider that the evidence is sufficient to show that the injury was received in the military service, and that by reason of the peculiar duties which he was performing at the time he received his injuries. The evidence already filed sufficiently corroborates the declaration of the claimant and the professional character of the testimony showing the existence of the injury at discharge and continuously from that time until the present. Your committee therefore recommend the passage of the bill (H. R. 452) granting a pension to Frederick Corfe.

Your committee concurs in this report and recommends the passage of this bill.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 928.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 19, 1884.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 3177.]

The Committee on Pensions, to which was referred the bill (H. R. 3177) granting a pension to Charles F. Paris, has examined the same, and reports that an examination of the record and proofs justifies the committee in concurring in the statement made by the Committee on Invalid Pensions of the House of Representatives to that body, which is as follows, viz:

Charles F. Paris was a soldier in the One hundred and twenty-third Regiment of Indiana Volunteers, and, as such, served out his time. His officers and comrades in their testimony speak of him as an excellent soldier, always at the front, and making for himself an excellent record as a patriotic volunteer. His regiment was in the field during the whole time of its service, and was engaged in the principal battles of the western campaigns.

He was, soon after his discharge, stricken with some disease of the lungs, which the examining surgeon of the Pension Department states as his belief was attributable to his Army service. That disease has progressed until he is now, and has been for several years, incapable of performing manual labor. He applied for a pension on the 20th day of January, 1876, and his application has been recently rejected, upon the ground that there is no specific proof of the incurrence of the disease in the military service of the United States. The proof of any affirmative fact is wanting; but upon the other hand the proof of his entire soundness at enlistment, his exposure and service in the Army, and his prostration soon after leaving the service, the absence of any hereditary or other specific cause of his debility, compel the conclusion that it must have resulted from the service. This committee is disposed to give him the benefit of any doubts in the case, in view particularly of his excellent character as a soldier and a citizen, as abundantly testified to, and they recommend that the bill do pass.

The committee reports the bill, recommending its passage.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 929.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 19, 1884.—Ordered to be printed.

Mr. COLQUITT, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 1796.]

*The Committee on Pensions, to whom was referred the bill (S. 1796) granting a pension to James P. Roe, having considered the same, make the following report:*

The grounds on which a pension is asked in this case are fully set forth in the memorial and affidavit of the petitioner, James P. Roe, from which it appears that said James P. Roe enlisted May 27, 1861, as a private soldier in Company H, Second Pennsylvania Volunteers, commanded by Captain Mealy and Col. William B. Mann; that he served as such until the 16th June, 1864, on which latter day he was honorably discharged from the military service of the United States; that subsequent to said discharge he was employed by Capt. John Ellison, post quartermaster at Camp Convalescent, in the State of Virginia, in the capacity of carpenter, and that while so employed he, by an awkward blow with an ax, inflicted a severe wound upon his right foot, from which he suffered greatly for many months, and was totally disabled for labor until February or March, 1865, and that he continues to be partially disabled from the effects of said injury.

Your committee find that no proof is furnished that James P. Roe was in the enlisted service of the United States at the time said injury was sustained, but was merely employed by the commander of the fort for mechanical work about the camp. There is, therefore, no necessity for considering the nature of the injury and the defective proofs by which it is sought to be established.

In view of the facts stated, the committee recommend that the bill be indefinitely postponed.

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48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 930.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 19, 1884.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 2258.]

*The Committee on Pensions, to whom was referred the bill (S. 2258) granting a pension to Martha Bates, have examined the same, and report:*

That it appears from the letter of the Commissioner of Pensions, addressed to the chairman of this committee, forwarding the papers in the case of this claimant, that the application is still pending in the Pension Office. It may yet be admitted there; and, if so, it would be greatly to the claimant's advantage.

Your committee therefore recommend that the bill be indefinitely postponed.

O

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 931.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 24, 1884.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill S. 237.]

*The Committee on Claims, to whom was referred the bill (S. 237) entitled "A bill for the relief of Frances W. Dyer, as administratrix of the estate of William P. Dyer, deceased," have considered the said bill, and report thereon as follows:*

The claimant, Frances W. Dyer, is the widow of William P. Dyer and the administratrix of his estate. William P. Dyer, in his lifetime, was a resident of Belfast, in the county of Waldo, and State of Maine. For some time prior to his death he was the master of the ship Charlotte W. White, and was engaged in trading between the ports of Maine and those of the West Indies and the Southern States.

On the 2d day of January, 1880, Dyer was complained of before a United States court commissioner at Mobile, Ala., under section 5347, Revised Statutes, for brutality to one of his crew. He had an examination before the commissioner, and was bound over to appear at the next term of the court, to answer any indictment or information that might be found or filed against him. He entered into a recognizance in the sum of $500 with one J. R. Edwards, as surety for his appearance.

On the 9th day of June, 1880, an information was filed against him in the district court for the southern district of Alabama, and failing to appear to answer such information, on the 17th day of January, 1880, his recognizance was forfeited, and judgment for $500, the same being the amount of the recognizance, duly entered against Dyer and Edwards, the surety.

At a subsequent day of the term Edwards, the surety, stated to Mr. Duskin, the district attorney, that he was satisfied Dyer was lost at sea, the ship upon which he last sailed more than six months prior to that time not having been heard from. The district attorney, believing, but not being fully satisfied, that Dyer was dead, agreed with Edwards, with the consent of the court, that he might deposit with the clerk of the court the sum of $100, which Dyer had left with him to indemnify him, and the case against Dyer might be continued until the next term. Thereupon, Edwards paid $100 to the clerk of the court, and the case was continued until the next term. At the next term the district attorney and the court were made satisfied that Dyer was dead, having been lost at sea with his ship before the first day of the term of court at which

he was recognized to appear. The district attorney thereupon, with the consent of the court, nol. prossed the case of Dyer.

On the 29th day of April, 1881, the clerk of the court deposited the said sum of $100 with the assistant treasurer of the United States at New Orleans, and took his receipt therefor, of which the following is a copy, viz:

OFFICE OF ASSISTANT TREASURER UNITED STATES,
*New Orleans, April* 29, 1881.

I certify that N. W. Trimble, clerk United States circuit court, Mobile, Ala., this day deposited to the credit of the Treasurer of the United States $100, on account of United States *vs.* W. P. Dyer *et al.*, forfeited recognizance, for which I have signed duplicate receipts.

BENJ. F. FLANDERS,
$100.] *Assistant Treasurer United States.*

The money was covered into the United States Treasury by miscellaneous warrant No. 691, in the second quarter of the year 1881.

The claimant was appointed administratrix of the estate of her deceased husband by the probate court of the county of Waldo, in the State of Maine, on the second Tuesday of July, 1881, and she duly qualified as such administratrix.

Your committee are satisfied that Dyer was dead prior to the first day of the term of the court at which he was recognized to appear, and therefore before the forfeiture of his recognizance.

The judgment entered against Dyer and his surety, Edwards, was set aside by the court, upon its being made to appear that Dyer was dead before the first day of the term of court at which he was recognized to appear.

We think the claimant is entitled to the $100, and we therefore recommend the passage of said bill.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 932.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 24, 1884.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill S. 1863.]

*The Committee on Claims, to whom was referred the bill (S. 1863) for the relief of Robert C. Murphy, have considered the same, and report as follows:*

This claim has been before Congress many years, and has been reported upon favorably many times. The statement of the facts involved, in which all the reports upon the claim agree, is as follows:

That said memorialist was appointed consul to the Empire of China, at port of Shanghai, in July, 1853, and served as such consul until the 30th day of June, 1857, when he resigned. That one William Knapp, jr., was vice-consul up to the time of the memorialist's resignation.

That in the final adjustment of said memorialist's accounts at the Treasury Department he was held accountable for the informalities in the accounts of his vice-consul; that is to say, he was charged with $980.85, the amount adjudged due to the United States from the said William Knapp, jr., United States vice-consul.

That subsequently the United States Treasury allowed a part of the vice-consul's account, and paid the same, $490.17, to your memorialist, leaving a balance of $490.68 paid by your memorialist for said vice-consul.

That the said vice-consul was accepted as such by the Department of State, and was, therefore, in the absence of the consul, the chief officer of that port, and his acts could only be controlled by the Department, the consul, with the Department's knowledge, being in the United States. And the Department had the power to stop payment of the vice-consul's drafts, and thus protect the United States; but, instead of so doing, they paid his drafts and charged the payments to said claimant.

The committee think that, in justice and equity, the memorialist ought to be paid the amount claimed by him, and they therefore report back the said bill and recommend that it do pass.

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48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 933.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 24, 1884.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill S. 384.]

*The Committee on Claims, to whom was referred the bill (S. 384) for the relief of William M. Pleas and F. S. Jones, have carefully considered the same, and report as follows:*

The claim is for fifty-three head of oxen, died and driven off by a snow storm at Fort Casper, between the 1st October and 31st December, 1865, while employed at Fort Casper, at $77.50 per head, amounting to $4,107.50, and for thirty wagon-boxes, alleged to have been taken by the order of the commanding officer as lumber for coffins, at $50 a box, amounting to $1,500, making the total claim $5,607.50.

It appears from the records of the War Department that the claimants in July or August, 1865, contracted with the Government freight contractors, A. Caldwell & Company, to transport from Fort Leavenworth to Salt Lake City from 75,000 to 90,000 pounds of military stores. Their train left Fort Leavenworth about the 1st of August, 1865, and reached Fort Casper, Dak., about October 1, 1865, a post then occupied by troops of the Sixth West Virginia Cavalry, under command of Maj. Andrew Squires of that regiment. Major Squires caused the train to be stopped at Fort Casper and its loading discharged, retaining the teams, which were used to haul material for the construction of winter quarters for his command.

The owners desired to return to the settlement, as there was a scarcity of forage for their animals in that region. Major Squires, however, retained the train in service, at the rate of $10 per diem per team for the time employed, until about 1st January, 1866, when the train, by reason of death of many of the oxen, became unserviceable.

The services required of Pleas and Jones were hard, but their compensation was large, and the rate of compensation agreed upon seems to the committee equal to the risk. The claimants allege that their 26 teams were kept in service at the rate of $10 per diem per team for a considerable portion of the time from October 1st to January 1, 1866. The Government could not undertake to insure its employés from losses by storms, failure of vegetation, or other acts of God. Other risks for which in some events the Government might have been liable were, in the opinion of the committee, sufficiently covered by the large compensation paid the claimants. The committee recommend the disallowance of this part of the claim.

It appears from the report of the Quartermaster-General's Department that but 150 feet of claimants' wagon-box lumber was ever used by the troops. The committee concur in the recommendation of the depot quartermaster that claimants be paid for that quantity of lumber at 12 cents per foot.

The committee therefore report back the bill with the following amendment: In line six strike out the words "four thousand four hundred and sixty," and insert the word "eighteen," so that the line shall read, as amended, "sum of eighteen dollars in full," and recommend the passage of the bill as so amended.

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48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 934.

# IN THE SENATE OF THE UNITED STATES.

DECEMBER 24, 1884.—Ordered to be printed.

Mr. PENDLETON, from the Committee on Foreign Relations, submitted the following

# REPORT:

[To accompany bill S. 678.]

The Committee on Foreign Relations, to which were referred Senate bills 678, 1271, and 1961, with sundry communications from the Secretary of State, reports the Senate bills 1271 and 1961, with the recommendation that they be indefinitely postponed, and Senate bill 678, entitled "A bill in relation to the Chinese indemnity fund," with the recommendation that it do pass.

The fund was paid, according to the terms of a treaty between the Chinese Government and the United States in 1858, to cover alleged losses incurred by American citizens prior to that date, and amounted to the sum of 500,000 taels ($735,258.97). The real amount of the losses actually sustained, as ascertained by commissioners appointed under an act of Congress to adjust the claims and award such sums as might be justly due, and by the judgment of the Court of Claims, with interest on large part thereof at 12 per centum for five years, has been fully paid, and there remains a large balance in the possession of the United States against which no claim exists.

Since it has been ascertained that the amount paid by China was largely in excess of every just demand against that Government at the time the indemnity was paid, every administration, by the President and the Secretary of State, has earnestly recommended the repayment to China of that excess.

In this view your committee most cordially concurs. It believes that the wisest policy on the part of this Government is to deal with transparent justice and even liberality in its intercourse with all the nations, and especially with those of another race and civilization.

The committee annexes two letters from the Secretary of State, and a report made by the Committee on Foreign Affairs to the House of Representatives:

[Personal.]

DEPARTMENT OF STATE,
*Washington, January* 16, 1884.

SIR: I have to acknowledge the receipt of a letter of the 3d instant from the clerk of the Committee on Agriculture, desiring certain information for your use, in reference to the Chinese indemnity. The following questions are asked in your behalf:

*First.* "Out of what did the fund arise?"

Contemporaneously with the demands made by Great Britain and France toward the close of their hostilities with China in 1856-'57. Mr. William B. Reed, the minister of the United States at Peking, addressed the Chinese Government, urging the claims

of American citizens against it. The general character of Mr. Reed's demand was, according to his dispatch upon the subject of February 13, 1858, as follows:

* * * "Among them [meaning claims] is compensation for the losses which their citizens have incurred whilst pursuing lawful commerce (for none other does the undersigned or the United States desire to countenance) or other mode of peaceful occupation, both in years past and recently, when their resolute neutrality did not seem to give them protection from outrage. This must be adjusted."

In a dispatch of February 1, 1858, Mr. Reed classifies these claims as follows:

I. Those unadjusted claims, dating as far back as 1847, and having no relation whatever to the events of 1856.

II. Those originating in the pending warfare, and these again may be divided into three classes:

First. Those which, though no doubt produced by these hostilities, occurred at a distance from the scene, such as firing upon the American steamer Curufa, on October, 1856.

Second. Those occasioned by the British bombardment of Canton, October 26 and 29, 1856.

Third. Those produced by the burning of the factories of the 14th of December, 1856, and the coincident destruction of American merchandise in the Honau packhouse; and

Fourth. The destruction of the American docks and vessels at Whampoa and the reported desecration of graves.

Mr. Reed estimated the direct losses at $661,574.17, and the contingent (as where it could not be proved that property alleged to have been taken or lost had not been restored) at $245,129.81. The constructive losses were placed at $380,137.90, making a total of $1,286,841.88.

Negotiations were conducted upon the above basis, and culminated in a proposition that the 600,000 taels, which were demanded, would be reduced to 525,000 taels, should payment be made by orders upon the Government branches in the manner proposed by Mr. Reed.

The imperial commissioners replied, November 6, 1858, signifying their readiness to acquiesce if a further reduction of 25,000 taels was made, and asking, in that case, the submission of a draft of a convention to govern the settlement accordingly.

This proposition was acceded to, and November 8, 1858, a convention was concluded by which China agreed to pay 500,000 taels "in liquidation of the claims of American citizens at the various ports to this date."

The payment was subsequently made in full, amounting to $735,238.97, which was kept upon deposit in China subject to the orders against it in payment of proper claims found by the commission authorized afterwards by Congress to determine them.

After all the claims had been adjusted and paid in China, the surplus of the fund, with accumulations gained by interest and exchange, amounted, October 10, 1867, when transferred to the custody of the Department of State, to $390,223.72.

*Second.* "What parties were paid, and how much?"

Under the act of Congress approved February 22, 1869, Messrs. Nott & Co. were paid from the Chinese indemnity fund the sum of $38,242.53; and on May 11, 1881, John E. Ward, attorney of record, was paid from this fund on account of the "Caldera claims" the sum of $113,077.11, for different parties as follows:

| | |
|---|---|
| Sun Mutual Insurance Company | $43,932 85 |
| The Chinese Mutual Insurance Company | 2,007 81 |
| John P. Paulison, administrator of Matthew Rooney, deceased | 5,966 85 |
| John C. Wilbur, administrator of Enoch J. Wilbur, deceased | 13,786 88 |
| Henry W. Hubbell | 17,811 82 |
| Henry W. Hubbell | 29,570 90 |
| Total | 113,097 11 |

The above payments were made to Mr. Ward, in full of judgments of the Court of Claims, affirmed by the Supreme Court of the United States.

According to a statement of the Bureau of Accounts, the present condition of the Chinese indemnity to January 3, 1884, is as follows:

| | |
|---|---|
| Four per cent. United States registered bonds | $578,500 00 |
| Three per cent. United States registered bonds | 1,100 00 |
| Cash on hand | 4,551 36 |
| Total | 584,151 36 |

*Third.* "What present claimants, and, if any, how much?"

This question I am unable at present to answer specifically. While there are claims against China I am not prepared now to say that any of them are a lien upon the indemnity fund.

As Congress has on several occasions had the Chinese indemnity before it, without, however, arriving at any definite conclusion touching the disposition to be made of the surplus, I have thought it not inappropriate to briefly allude to the more important documents giving consideration to this subject:

1. Executive Document No. 30, Thirty-sixth Congress, first session.
2. Executive Document No. 29, Fortieth Congress, third session.
3. Executive Document No. 219, Fortieth Congress, second session.
4. Executive Document No. 58, Forty-first Congress, second session.
5. Congressional Globe, second session Forty-first Congress, p. 2977.
6. House Report No. 113, Fourth Congress, third session.

This document also reprints the report of Mr. Sumner, chairman Committee Foreign Relations, Senate, of June 24, 1870, in which he gives fully the history of the fund, and recommends its return to China.

I have the honor to be, sir, your obedient servant,

FRED'K T. FRELINGHUYSEN.

Hon. WARNER MILLER,
*United States Senate.*

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DEPARTMENT OF STATE,
*Washington, May* 16, 1884.

SIR: In reply to your letter of the 3d of March last in relation to the Chinese indemnity fund, and requesting to be informed as to whether any claims by American citizens are now pending which arose before the date of the convention of November 8, 1858, between the United States and China, and as to whether this Department had knowledge of any unadjusted or unsettled claims on the part of American citizens against China which have arisen since the date of the above-mentioned convention, and also as to whether any claims which have arisen from events subsequent to the date of the convention of November 8, 1858, have been paid to American citizens out of the Chinese indemnity fund, you are informed that there are no claims of American citizens against China now pending which arose prior to the convention of November 8, 1858. The recently-presented claim of J. R. Carroll (mentioned below) is, however, founded on events which occurred prior to the convention, and other claims founded on the same events have been settled and paid since the convention out of the indemnity fund.

Claims against China which have arisen since the convention of 1858, and which are yet unadjusted, are as follows:

Charles E. Hill, for the use of his steamer, the Keorgeor, and her loss while under charter to the Chinese Government as a dispatch-boat during the Taiping rebellion in 1862–'63:

This with the Ward claim was referred to the viceroy, Li Hung Chang, for settlement last year. The Ward claim was settled, and the settlement of the Keorgeor claim was promised "after a little delay," but up to this time it remains unadjusted.

Charles F. Jones, for services as commander of the above-named steamer.

This claim rests on grounds similar to those set forth on account of the vessel itself, and its settlement depends on the disposition of the Keorgeor case.

M. A. Jenkins, for illegal detention of goods shipped by him in the early part of 1874, under transit permits from Hung Kow for Chun King.

They were detained from eight to ten months at a "tax station" on the ground that the transit passes were forged. The claimant placed his loss at $100,000. Minister Avery was informed by the Chinese authorities that Mr. Jenkins did not own the goods claimed as his, and the claimant having failed to produce satisfactory proof to the contrary, the minister dropped the claim. It was subsequently taken up by Minister Seward, who requested from the claimant any proofs he might be able to advance in its support. So far as the Department is informed no answer to this request has been made.

A. A. Fisher, for injuries received at the riot in Shanghai, May 3, 1874.

This claim was disallowed on the ground that the claimant unnecessarily and carelessly exposed himself to the mob, and that his injuries were not severe, consisting only in the loss of two teeth. Mr. Fisher has lately renewed his claim, and the Department instructed Minister Young April 25 last to make a further investigation.

Rev. Mr. Sites, for injuries received in an assault upon his chapel at Yenping in December, 1879, and the destruction of certain property.

The Chinese authorities offer a satisfactory amount of money in indemnification for his sufferings and losses, but refuse to restore his chapel to him unless he carries on his religious services with certain restrictions.

W. S. Wetmore, for breaking up his business (cotton-yarn factory), and arrest of his comprador company.

Our minister in China has been instructed not to press the claim until the question of the legitimacy of his business enterprise under the treaty be settled.

J. R. Carroll claims indemnity as one-third owner of the bark Caldera, giving as his reason for not pressing his claim when other Caldera claims were pending, that he has been afloat most of the time since the loss of the bark, and therefore knew nothing of the settlement of the Caldera claims.

The Department has informed the claimant that it cannot interfere in his case, because by authority of Congress all the known claims on account of the Caldera were settled by the Court of Claims in 1879.

No claims have been paid out of the Chinese indemnity fund which have arisen out of events transpiring subsequent to the convention of 1858.

Since the date of the convention, claims arising from occurrences of a date prior to the convention have been paid out of the Chinese indemnity fund, as follows:

| | |
|---|---|
| The Caldera claim of Mathew Rooney, master of the bark, was allowed by Minister Burlingame in 1864, and paid, amounting to | $3,040 00 |
| Claims of the board of underwriters and insurance companies on account of the loss of the bark were paid by the authority of Congress, on the adjustment of the Court of Claims, to the amount of | 113,017 11 |
| The Nott claim, for the loss of 20,000 Mexican dollars shipped on the schooner Neva, was paid, by authority of the Attorney-General, to the amount of | 38,242 53 |

In the opinion of this Department, claims arising subsequent to the date of the convention are not properly chargeable against the Chinese indemnity fund, as it is expressly stipulated by the terms of the convention that this amount "shall be in full liquidation of all claims of American citizens at the various ports, to this date."

The Department of State knows of no just claim against the Chinese indemnity fund.

I have the honor to be, sir, your obedient servant,

FRED'K T. FRELINGHUYSEN.

Hon. JOHN F. MILLER,
*Chairman of Committee on Foreign Relations,*
*United States Senate.*

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[House Report No. 970, Forty-eighth Congress, first session.]

*The Committee on Foreign Affairs, to whom were referred the bills (H. R. No. 1004) in relation to the Chinese indemnity fund, and (H. R. 3766) in relation to the Caldera claims against that fund, have carefully considered the same, and submit the following report:*

Between the years 1844 and 1858 numerous losses were sustained by American residents of China by reason of the destruction of their property through the acts of lawless bands of Chinese; the greatest number and the heaviest losses occurring after the year 1850, when the powerful revolt known as the Taeping rebellion broke out, which continued to render the power of the central Government nugatory in a large section of the country for a number of years.

In 1858 these losses were scheduled by the United States minister in China, and a demand was made by him upon the Chinese Government for their payment. After some delay, and a reduction of the amount demanded to 500,000 taels ($735,258.97), a treaty was concluded between the two Governments providing for the payment of this sum from the customs receipts at the three principal open ports of the Chinese Empire.

Under the provisions of an act of Congress two commissioners were appointed to adjust the claims and award such sums as might be found to be justly due, their decisions to be final.

The commissioners appointed were both at the time residents of China, and familiar with all the circumstances under which the claims arose.

They met at Macao, in China, November 18, 1859, and concluded their labors on the 13th day of January, 1860.

Upon examination all the claims were found to be more or less exaggerated, and some to be entirely groundless; while others were presented by persons not citizens of the United States.

After paying all the claims to the apparent satisfaction of the claimants—no protest being filed in any case—with interest for five years at the rate of 12 per cent. per

leposited in the vaults of the State Department.
e exigency of the stringent money market during the civil war the money was
the United States Government, and bonds of the Government were deposited
e Secretary of State to represent it.
facts, as here outlined, clearly show that this "fund," which is still in the
of the Secretary of State in the form of United States bonds, should be
d to the Chinese Government without further delay.
und having always been regarded and treated as the property of China—as it
tly is—any increase in the nature of earnings which may have accrued during
dency of its return attaches to the principal under the clearest construction
and the simplest rules of justice and equity.
uestion presented by the bill H. R. 3766 is the claim of the owners and insurers
ark Caldera, pillaged and destroyed by Chinese pirates in October, 1854, to
rs' interest, at the rate of 12 per cent. per annum on the 60 per cent. of their
claim, which was disallowed by the Board of Commissioners in making their
with interest thereon at the rate of 5 per cent. per annum from January 26,
date.
a careful review of all the evidence in this case the committee find, from the
of the master of the Caldera, filed with the French consul at Hong-Kong
ately after the occurrence, and from other conclusive testimony, that the bark
ered a severe typhoon on her first day out from Hong-Kong bound for San
o with a cargo of tea; that the sails were "torn into shreds" and the vessel
everely strained by the force of the gale and the heavy sea that she leaked
lly, necessitating the constant working of the pumps to keep her free; that
ving before the gale for two days she grounded while endeavoring to take
n a bay on the coast of the Five Islands, suffering considerable damage to her
fter working off the bar upon which she had struck she anchored in the bay,
being kept continually at work at the pumps to keep the water in the hold
ining upon them. That while thus engaged the crew were surprised and
ered by Chinese pirates and the cargo plundered; that at that time there
feet of water in the hold, immersing about one-third of the cargo; that the
roved a total loss, and a large part of the cargo was carried away by the
That upon being informed of this outrage the Chinese Government sent
war junks, in conjunction with war vessels of foreign powers, and dispersed
tes, recovering a small portion of the stolen property. That both the hull o
el and her cargo had been seriously damaged by the elements and her rigging
otally destroyed before she entered the harbor where the robbery was com-
s placed beyond all question by the testimony of the master of the Caldera
ers.
sidering this case the Board of Commissioners in China had recourse to the
perts, who testified as to the amount of damage sustained previous to the
attack, and reached the conclusion that it was 60 per cent. of the first cost,
therefore allowed 40 per cent. of the claims, with five years' interest at the

As the total amount of these claims, presented and scheduled by the United States minister in China, was but $90,009.60, they have been paid to date a sum about equal to the full amount of their entire claim, with 5 per cent. interest from the date of the loss to the date of the final payment made by the Secretary of State. This makes no deduction whatever for the damage previously done to the vessel by the elements, which, from the testimony adduced before the Board of Commissioners, was about 15 per cent. of her first cost, nor for the value of the portion of the cargo recovered, amounting to several thousand dollars.

The sum awarded by China was, in gross, to cover an entire list of claims; and the Court of Claims was right in finding for 60 per cent. of the claim with simple interest, instead of 60 per cent. with the interest prior to the payment of the fund compounded.

In view of all these facts the committee are of the opinion that these claimants have been paid every dollar to which they can possibly lay claim, and more than the merits of the case seem to have demanded.

To summarize, the United States Government, in making a statement of account against China, overcharged that Government nearly 100 per cent. through inadvertence. This excess, with its earnings while withheld from China, should be returned forthwith.

The Caldera claimants have received their utmost equitable demands.

The sum received from China under the provisions of the treaty was $735,238.97. After paying all the claims, there remained $239,165.77, in gold, which, when transferred to the United States and deposited in the State Department, yielded the sum of $390,223.72. This fund has been invested in United States securities, and at this time, with interest at the rate of 5 per cent. per annum added, amounts to $583,400.90, after having paid from it the Caldera claims, awarded by the Court of Claims.

The Secretary of State, writing to the chairman of the subcommittee under date of March 18, 1884, in answer to an inquiry, says, "The Department of State knows of no just claim against this fund."

The excess having been, in reality, the property of China from the day of its payment into the hands of the United States, by every rule of justice, whatever it may have earned while in the custody of the Government of the United States is also the property of China by the strictest construction of law.

The committee therefore report the bill H. R. 3766 adversely, and recommend that it lie upon the table; and the bill H. R. 1004 favorably, with an amendment, and recommend its passage.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 935.

IN THE SENATE OF THE UNITED STATES.

JANUARY 6, 1885.—Ordered to be printed.

Mr. SLATER, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 1154.]

*The Committee on Pensions, to whom was referred the bill (S. 1154) granting a pension to Anne S. Mellach, has examined the same and report:*

Claimant is the widow of Emanuel Mellach, late a paymaster in the Navy. Mellach was appointed an acting assistant paymaster in the Navy 18th December, 1861; resigned November, 1865; was appointed passed assistant paymaster August 1, 1866, to date from 23d July, 1866, and promoted to paymaster March 24, 1875, and died at Trenton, N. J., on the 21st October, 1878. His rank was that of lieutenant-commander. His widow was pensioned from October 22, 1878, at $30 per month. She now asks by this bill to have it increased to $50 per month.

Your committee find nothing in this case to distinguish it above any other of like character and rank. There is no foundation for such increase but the fact that Congress has from time to time increased the pensions of certain of the widows of Army and Navy officers from $30 to $50. So far as disclosed by the record her husband did his duty while in the service, died of disease contracted in the service, and, under a general statute, his widow has been placed upon the pension-rolls; but there is absolutely nothing in the history of the case or the services rendered upon which to base special legislation increasing this pension. Such special legislation cannot be too strongly condemned. The constant and persistent pressing of this class of claims is the best possible argument against their being granted.

Your committee therefore recommend that the bill be indefinitely postponed.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 936.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 6, 1885.—Ordered to be printed.

Mr. SLATER, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 1175.]

*The Committee on Pensions, to whom was referred the bill (S. 1175) granting a pension to Anna M. Smith, has examined the same andreport:*

Anna M. Smith claims to be the widow of John Smith, who was enlisted December 20, 1861, discharged August 17, 1863, was pensioned and last drew his pension June 4, 1870, and since supposed to be dead. Her application was filed February 14, 1883. The Commissioner of Pensions informs the chairman of the Committee on Pensions that John Smith has recently filed an application to be restored to the pension-rolls, which application is now pending in that office. Under this state of the case your committee recommend that the bill be indefinitely postponed.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 937.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 6, 1885.—Ordered to be printed.

Mr. SLATER, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 1789.]

*The Committee on Pensions, to whom was referred the bill (S. 1789), granting a pension to John O'Donald, has examined the same, and reports:*

Soldier enlisted September 7, 1864; was mustered into service February 23, 1865, and mustered out with his company September 27, 1865. He claims to have contracted chills and fever, disease of liver and bowels, and general debility about July 1, 1865, in the service and in line of duty; says he was treated in regimental hospital, but not in any general hospital; says the whereabouts of his regimental surgeon is unknown. His second lieutenant says that soldier had chills and fever about July, 1865; had a sallow complexion. The records of the War Department show that soldier was present from date of muster-in, until July 31, 1865. His name is not borne on returns for July, 1865. Soldier says that he is unable to furnish the evidence of treatment from date of muster-out until 1870, because his family physicians are both dead. The case was rejected by the Pension Office, because there was no record evidence that his disease was contracted in the service. Your committee are unable to see any reason for reversing the decision of the Department. The main fact that soldier had chills and fever for a a short period while in the service is not sufficient, in the judgment of your committee, to make an equitable case unless closely connected by clear and satisfactory evidence with his present ailments, and no such evidence is furnished. The fact that he made no application for a pension until August, 1877, is a strong presumption against its justness. Your committee therefore recommend that the bill be indefinitely postponed.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 938.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 6, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following:

# REPORT:

[To accompany bill H. R. 6282.]

*The Committee on Pensions, to whom was referred the bill (H. R. 6282) granting a pension to R. W. Duncan, has examined the same and reports:*

That proofs before the committee fully sustain the statement of the case as presented by the report of the Committee on Invalid Pensions of the House of Representatives, as made to that body, and which is here copied and concurred in by your committee, as follows:

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6282) to place the name of R. W. Duncan on the pension-roll, submit the following report:*

In the month of August, 1862, R. W. Duncan, then a slave owned by Andrew Duncan, of Barry County, Missouri, left his home and became a scout and guide for General Blunt, who was in command of the Union forces at Hazel Bottom. In October, 1862, he was detailed to go with Col. W. F. Cloud in pursuit of a small rebel force who had captured a picket post and made the guard prisoners. Colonel Cloud, whose reputation as an honorable gentleman and a brave and gallant officer has never been questioned, says:

"While engaged in said pursuit we came upon a body of the enemy more numerous than my force, and in position. We charged them, and in the action, which was near what is called Shell Mills, Mo., said Duncan, while in line of his duty as such guide, and while aiding my body in the pursuit and charge, was shot and captured; that he was wounded in the head by being beat by the rebels, and was wounded by a bayonet thrust. My means of knowledge was first, seeing said Duncan when he was captured, and, secondly, seeing him a few weeks afterwards, he having escaped from the rebels. Said Duncan was rendering valuable service to the Army when thus wounded and captured, which was about the 12th of October, 1862."

The claimant gives a full account of his connection with the command, his being wounded and made prisoner. Several of his neighbors testify to their acquaintance with him since 1863, and speak of his wounds and his condition ever since. They speak of him as an honest, industrious farmer, who has a large circle of friends, and is respected and trusted by all of his neighbors, both white and black.

Dr. L. W. Jacobs gives a very careful description of his wounds and of his condition for the past twelve years, saying: "I find a gunshot wound of right leg above knee, a bayonet wound near brim of pelvis on right side, also gunshot wound over left eye, which, in my opinion, fractured the outer table of frontal bone." All of the affidavits are explicit and full. The witnesses are men of excellent repute. Your committee believe that the testimony clearly establishes this man's right to a pension. The Pension Office cannot grant it because he *never enlisted* in the service. Your committee recommend the passage of the bill.

The bill is herewith reported, and the committee recommend its passage.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 939.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 6, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 585.]

*The Committee on Pensions, to whom was referred the bill (S. 585) granting a pension to John B. Tibbetts, has examined the same and reports:*

That the Commissioner of Pensions, in his letter transmitting the papers in this case to your committee, says:

The applicant alleges that he was kicked by a horse at Camp Brice, Kansas, in June, 1862, causing fracture of the ribs on the left side and rupture in the upper part of the abdomen. The claim has been rejected on the ground that the disability was not incurred in the service, as shown by the evidence added by a special examination made by this office.

The examination was made by a special examiner, whose report, including the evidence taken by him, is voluminous, and seems to have been very full and complete.

After the rejection by the Commissioner of Pensions a bill was introduced in the House of Representatives for the purpose of securing a pension for Mr. Tibbetts by a special act. The bill was referred to the Committee on Invalid Pensions of the House of Representatives. The result was the following report from that committee on June 20, 1884:

Your committee have carefully examined the testimony submitted, which is very voluminous, embracing a full and exhaustive report by a special examiner, and conclude that the bill ought not to pass, and therefore ask that it lie on the table.

Your committee does not find in the case sufficient reason to reverse these two adverse decisions, and therefore report the bill to the Senate with a recommendation that it be indefinitely postponed.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 940.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 6, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 2322.]

*The Committee on Pensions, to whom was referred the bill (S. 2322) granting a pension to Mrs. Margaret Abbett has examined the same and reports:*

That the bill describes Mrs. Abbett as the "dependent mother of Augustus H. Abbett and John B. Abbett, jr., late of the Sixth Regiment Indiana Volunteers."

In response to the request of the chairman of the committee for the papers in the case, the Commissioner of Pensions says:

> In the case of Margaret Abbett, mother of A. H. and J. B. Abbett, late of the Sixth Indiana Volunteers, I have the honor to inform you that the records of this office fail to show that any claim under the name and service above given has ever been filed.

The law provides for the allowance of pensions to dependent mothers. No reason has been given to the committee why application has not been made by Mrs. Abbett for an allowance to her of a pension as a dependent mother in the usual form under the existing law; and as no sufficient evidence has been presented to the committee showing why this case should be made an exception to others of its class, the bill is herewith reported adversely, with a recommendation that it be indefinitely postponed.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 941.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 6, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4041.]

*The Committee on Pensions, to whom was referred the bill (H. R. 4041) granting a pension to Zelica T. Dunlap, has examined the same and reports:*

That the report of the Committee on Invalid Pensions of the House of Representatives, made to that body, sets forth the facts of the case, and is as follows, viz:

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4041) for the relief of Zelica T. Dunlap, have had the same under consideration, and submit the following report:*

Lieut. Col. James E. Dunlap, of the Twenty-ninth Regiment Illinois Volunteer Infantry, was commissioned in the United States service August 27, 1861, and resigned by the advice of military surgeon, because of serious disease contracted during the siege of Fort Donelson, and died therefrom May 12, 1863, leaving this claimant as his widow, and one young child dependent upon her.

Congress granted claimant a pension under the name of Zelica T. Dunlap, by special act, on the 3d day of March, 1871. Meantime the widow, being in reduced circumstances financially, remarried on the 6th day of February, 1870, and prior to the passage of the bill granting her a pension. This marriage, instead of relieving her from her embarrassments, proved most unfortunate, and was followed by desertion and divorce, the latter being granted by decree of court on the 10th day of May, 1883.

It appears that the pension granted her by act of Congress was passed after and during her second marriage; but, under the construction of the law by the Pension Office, it was decided that she could not take the benefit of the relief so ordered by Congress, and no money has been paid to her thereon. Under these circumstances, and in view of the intention of the former act, of which she has had no benefit, the committee recommend that the provision for her relief be passed, to take effect from and after the passage of the act.

Your committee, therefore, recommend that the bill do pass, with an amendment providing that said pension shall be granted subject to the limitations and provisions of the pension laws, and striking out of said bill the provision as to restoring her to the pension-roll.

The act passed for the benefit of Mrs. Dunlap, and under which it was held by the Commissioner of Pensions that her name could not be placed on the pension-roll because of her remarriage, is here given, as follows, viz:

AN ACT granting a pension to Zelica T. Dunlap.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of

the pension laws, the name of Zelica T. Dunlap, widow of James E. Dunlap, late lieutenant-colonel Twenty-ninth Regiment Illinois Volunteers, at the rate of thirty dollars per month, from and after the passage of this act.

Approved March 3, 1871.

The present bill will, in effect, revive what a former Congress gave to this widow, though the benefit will accrue to her only from the date of the passage should it become a law, and the widow deserves and needs the relief as much now as then. The committee therefore reports the bill favorably and recommends its passage.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 942.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 6, 1885.—Ordered to be printed.

Mr. CAMDEN, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 5500.]

*The Committee on Pensions, to whom was referred the bill (H. R. 5500) granting a pension to Benjamin F. Amos, have carefully examined the same and report:*

The House report accompanying the bill and papers in this case fully and correctly sets forth the applicant's claim to pension. Your committee adopts the report made by the House committee and recommend the passage of the bill, which report is as follows:

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5500) granting a pension to Benjamin F. Amos, having considered the same, submit the following report:*

It appears from the proof in the case that said Amos volunteered and was sworn into the service of the United States as a soldier in June, 1862, and was a member of the Seventh Kentucky Cavalry Volunteers, drew clothing, and acted the part of a soldier until he was wounded by gunshot in the left arm, at Cynthiana, Harrison County, Kentucky, July 17, 1862. That he was never mustered into the service, because while in the service and in the line of his duty, July 17, 1862, the town of Cynthiana was attacked by the rebel general, Morgan. The Seventh Kentucky Cavalry, none of whom were at that time mustered, said Amos among the number, were forced into battle, during which said Amos received a gunshot wound in said battle in the left arm, and was left at Cynthiana for medical treatment, and when sufficiently recovered he came to the regiment, then near Scottsville, Ky., about the last of November, 1862, and acted a short time in the capacity of quartermaster-sergeant. He was given a furlough by order of General Dumont, then commanding the Union forces, on account of the unfitness of said Amos for military duty on account of said wound. Said regiment was mustered in while Amos was in bed from the effects of said gunshot. None of the officers of said regiment were commissioned at the time he was wounded. His left arm was by said gunshot shattered and broken about half way from the shoulder to elbow, and his arm is rendered almost useless, and he is not able to perform hard manual labor on account of the contraction of the leaders and muscles, which makes the arm about two inches shorter than the other, and he is a cripple for life.

The committee believe the claimant is entitled to some consideration on account of his crippled condition, and therefore submit the accompanying bill and ask that it do pass.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 944.

IN THE SENATE OF THE UNITED STATES.

JANUARY 6, 1885.—Ordered to be printed.

Mr. CAMDEN, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 1142.]

*The Committee on Pensions to whom was referred the bill (H. R. 1142), have carefully examined the same, and report:*

That the claimant, Nelly Rogers, a colored woman, is the mother of Fred. Sawyer (or Bond) who enlisted in January, 1864, and died in July following. The applicant claims that she was the dependent mother of the soldier. The evidence shows that she was not dependent upon the soldier at the time of his death, and there is no evidence on file to show that the soldier contributed to the support of the applicant. The claim was rejected by the Commissioner of Pensions, on "the ground that the claimant was not dependent upon the soldier's contributions for adequate support during his life-time."

Your committee are of the opinion that the decision of the Commissioner of Pensions was in accordance with the facts in the case, and recommend the indefinite postponement of the bill.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 944.

IN THE SENATE OF THE UNITED STATES.

JANUARY 6, 1885.—Ordered to be printed.

Mr. CAMDEN, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 1142.]

*The Committee on Pensions to whom was referred the bill (H. R. 1142), have carefully examined the same, and report:*

That the claimant, Nelly Rogers, a colored woman, is the mother of Fred. Sawyer (or Bond) who enlisted in January, 1864, and died in July following. The applicant claims that she was the dependent mother of the soldier. The evidence shows that she was not dependent upon the soldier at the time of his death, and there is no evidence on file to show that the soldier contributed to the support of the applicant. The claim was rejected by the Commissioner of Pensions, on "the ground that the claimant was not dependent upon the soldier's contributions for adequate support during his life-time."

Your committee are of the opinion that the decision of the Commissioner of Pensions was in accordance with the facts in the case, and recommend the indefinite postponement of the bill.

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48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 945.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 6, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 930.]

*The Committee on Pensions, to whom was referred the bill (H. R. 930) granting a pension to Geriah Collins, have examined the same and report as follows:*

That said Geriah Collins, late private in Company D, Thirty-third Indiana Volunteers, filed his application for pension April 13, 1872, alleging as the basis of his claim that in March, 1863, at Thompson's Station, Tenn., he was captured by the enemy and sent to Confederate prison; was detained in prison twenty-seven days, and while there contracted disease of the heart. In transmitting the papers in the case to your committee the Commissioner of Pensions, under date of December 22, 1884, states that "the claim awaits the testimony of comrades and regimental surgeon to establish origin [of disability] in the service." The case is still pending before the proper tribunal established by law for the examination and determination of such claims, and your committee have uniformly declined under such circumstances to interfere with the regular order of proceedings when no special reasons for so doing are shown. The committee recommend that the bill be indefinitely postponed by the Senate.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 946.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 6, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 5962.]

*The Committee on Pensions, to whom was referred the bill (H. R. 5962) granting a pension to Mrs. Eliza Hicks, have examined the same and report as follows:*

That the said Eliza Hicks, on the 2d May, 1882, filed her application for pension as dependent mother of Rufus A. Hicks, late private in Company G, Twelfth Illinois Cavalry, alleging death of her said son in fall of 1865 while on his way to rejoin his command. It appears from the evidence on file that the said Rufus A. Hicks was murdered near Bowling Green, Ky., by one Morton, for his money. The claim was rejected by the Pension Office on the ground that the soldier was murdered after his discharge from the service and because the death cause was not due to the service. The claimant, who lived at or near Bristol, Tenn., at the time of his said enlistment and death, endeavored to establish by the testimony of several neighbors that the said Rufus A. Hicks visited her home at Bristol in the summer, 1865, on furlough, and that he was murdered while on his way to rejoin his command. But the records of the War Department negative the existence of any such furlough. It appears from the roll of Company G, Twelfth Illinois Cavalry, that the said Rufus A. Hicks "deserted July 8th, 1865, at Alexandria, La.;" that he is so reported for not only July and August, 1865, but also on the muster and roll of the company in 1866. The parole evidence is not sufficient to contradict this record, which is supported by the other facts and circumstances in the case. While the poverty of the mother appeals to our sympathy your committee think it would be highly improper to grant a pension based upon the death of her son, with the record of desertion standing against him and unexplained. The committee accordingly recommends that the bill be indefinitely postponed by the Senate.

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48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 947.

IN THE SENATE OF THE UNITED STATES.

JANUARY 6, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 1268.]

*The Committee on Pensions, to whom was referred the bill (S. 1268) for the relief of Sidney L. Skaggs, having examined the same, make the following report:*

That said Skaggs, in 1864 and during the early part of 1865, acted as pilot and guide for the different Federal commanders at the post of Clarksville, Johnson County, Arkansas. That in January, 1865, while out with a scouting expedition, under the command of Lieutenant Pitts, of Company A, Second Arkansas Infantry, the party were attacked by rebels or bushwhackers, and during the fight said Skaggs was wounded in each shoulder. The wound in the right shoulder necessitated amputation of the right arm near the shoulder joint. This amputation was made by the regimental surgeon, and he was treated in the regular Army hospitals. He filed his application for pension, which was rejected by the Pension Office on the ground that he was not an enlisted man in the military service of the Government, and because the general law made no provision for volunteer scouts and pilots, although regularly employed. Skaggs was between sixteen and seventeen yearrs of age while serving as scout and when wounded, as aforesaid, in an actual engagement with the enemy. Your committee have, in several instances, recommended relief in cases of this character, where the disability or injury was received by the scout in an actual engagement with the enemy. They think such cases constitute a proper exception and come within the spirit of the law. The committee accordingly report back the bill to the Senate with the recommendation that it be passed.

O

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 948.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 6, 1885.—Ordered to be printed.

Mr. CAMDEN, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 752.]

*The Committee on Pensions, to whom was referred the bill (S. 752) granting an increase of pension to Joshua M. Ash, have carefully examined the same and the papers therewith submitted, and report:*

Since the introduction of this bill, asking an increase of pension to $50 per month the Commissioner of Pensions has granted the relief asked for in the bill, and the claimant is now receiving a pension of $50 per month under the pension law. Your committee therefore recommend that the bill be indefinitely postponed.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 949.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 6, 1885.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 2327.]

*The Committee on Pensions, to whom was referred the bill (S. 2327) for the relief of James Bedell, senior, have examined the same and report:*

The claimant, James Bedell, sr., applied in the usual form for a pension at the Pension Bureau, as the foster-father of Samuel Umstead, late a private of Company G., Sixty-seventh Indiana Volunteers. This application was rejected on the ground that the applicant was not entitled, under the general laws, to a pension, there being no provision for foster-parents.

It appears from a petition signed by numerous persons resident in the neighborhood of the applicant, and by affidavits of two other persons, as well as his own sworn application, that he is the uncle of the soldier; that when Umstead was about two months old he was given by his parents to his uncle; that the parents soon after died; that Bedell raised, supported, and cared for said child until he was about eighteen years of age, when he volunteered in the service of the United States, and died, never having been married, a few weeks thereafter, of disease contracted in the service. It also appears that applicant never had any children by his first marriage, but has now two small children by a second wife, now deceased. The applicant is sixty-six years old, very infirm and nearly blind, and the sentiment of the community is very strong in favor of his being pensioned, he having been to all intents and purposes a father to this soldier.

It is alleged that the applicant was dependent on this child, but it is not necessary here to inquire into that question, as the bill proposes only that the Commissioner of Pensions shall hear and determine this case as if the applicant were the father of the soldier. Your committee in view of all the circumstances recommend the passage of the bill.

C

ONGRESS, } SENATE. { REPORT
Session. } { No. 950.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 6, 1885.—Ordered to be printed.

LLOM, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 1813.]

*mmittee on Pensions, to whom was referred the bill (S. 1813) for the f of Frank Schwartz, having considered the same, respectfully submit ollowing report:*

is case the soldier, who was a private in Company D, Sixth Illinois ter Infantry, applied for a pension, on the ground that about July 5, while on duty in the service at Monticello, Ala., he was bitten in r by a poisonous insect, resulting in ulcers in the ear and subse- deafness. The claim was rejected, the Commissioner states, "be- the records of the War Department fail to show the existence of l disability in the service, and claimant is unable to prove origin ole testimony."

claimant submitted no evidence showing the origin of his dis- in the service except his own statement. He testified that his n had written him that he would furnish an affidavit, but neg- to do so, though written to repeatedly; that he did not know the of the surgeon who treated him, but had written to all the sur- of his regiment without rec iving any replies, and that he did ow the whereabouts of any of his comrades.

examining surgeon at Belleville, Ill., who examined him, Septem- l, declared that claimant was afflicted with a cutaneous affection right side of the head and right ear, which had caused the de- ion of two-thirds of the lower ear; that there was a constant s of suppuration of the internal surface, but that his hearing in ar was perfect. Dr. Rubeth expressed the opinion that the dis- as not caused by the sting of a poisonous insect, as claimed, and etty sure that it was not contracted in the service.

the other hand, the three surgeons comprising the examining at Saint Louis, who examined Schwartz fourteen months later, d that he was permanently and totally disabled. They stated ere was a chronic ulcer on the right side of the face, inclosing ght ear, nearly all of which had been lost; that the bones of the ear appeared to have sloughed out; that there was total deaf- f that ear and rather difficult hearing in the left; that there was deformity; that claimant's appearance was disgusting, extremely at there were no evidences of syphilis, and that he was otherwise nd sprightly. They found him three-fourths disabled for ulcers eformity, and one-fourth for loss of hearing.

The committee believe that while this soldier may be entitled to a pension, yet the proof in the case does not justify granting it by Congress, especially as the allowance of a pension by the Commissioner of Pensions depends solely on the question of fact whether his disease was contracted in the military service. The committee therefore ask to be discharged from the further consideration of the claim, and that the bill do lie upon the table.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 951.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 6, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 3023.]

*The Committee on Pensions, to whom was referred the bill (H. R. 3023) granting an increase of pension to John Dwyer, having considered the same, respectfully report as follows:*

John Dwyer, after serving in the Regular Army from 1847 to 1868, was discharged for disability, on a surgeon's certificate stating that his eye-sight had become so impaired that it was "impossible for him to distinguish near objects." For this disability he was allowed a pension of $20 per month from date of discharge, at $24 per month from June 4, 1872, and at $30 per month from March 3, 1883. He is now receiving the last-named rate, which the bill proposes to increase to $40 per month.

The Commissioner of Pensions, in his letter transmitting the papers to this committee, says:

> Mr. Dwyer's claim for further increase on the ground of complete loss of sight has been rejected because it is the medical opinion that his sight is not completely gone, nor does he require the regular aid and attendance of an assistant, either of which must be shown as a matter of fact to entitle him to the next higher rate.

It is evident from the report of the committee of the House of Representatives that its favorable action was based on the supposition that Dwyer was receiving but $24 per month, while an increase was allowed about the time said report was submitted. No evidence is presented in addition to that considered by the Pension Office, nor is there anything to show that its decision is not just.

As Dwyer can secure an increase through the Pension Office when his condition warrants it, your committee sees no necessity for special action in his case by Congress, and for that reason we recommend that the bill do not pass, but be indefinitely postponed.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 952.

IN THE SENATE OF THE UNITED STATES.

JANUARY 6, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following:

# REPORT:

[To accompany bill S. 960.]

*The Committee on Pensions, to whom was referred the bill (S. 960) granting an increase of pension to Ann H. Cunningham, would respectfully report:*

That, as shown by a letter from the Commissioner of Pensions, dated December 6, 1884, the pension of Mrs. Cunningham has been increased from the date of its reduction to the rate of $50 per month, the amount proposed in the bill, and is now paid at that rate. We therefore recommend that the bill be laid upon the table.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 953.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 6, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 5004.]

*The Committee on Pensions, to whom was referred the bill (H. R. 5004) for the relief of William B. Smith, have considered the same, and respectfully report as follows:*

This bill proposes to increase the pension of William B. Smith from $50 to $72 per month, the rate which he would be allowed by the Pension Office under the act of June 16, 1880, if at the date of its approval he had been on the rolls at $50 per month. The writer of this report has seen Mr. Smith, and can certify from personal knowledge that the statement of the case made in the report of the House Committee is correct, as follows:

The papers in this case show that the petitioner's condition is most helpless and pitiable. It is impossible to conceive a case in which the full amount of $72 could be more worthily bestowed. We recommend the passage of the bill. The applicant, as is amply proved, is, and since October, 1881, has been, in a helpless condition, "requiring the constant assistance of another person to move, eat, undress, go to bed, get up, in fact cannot help himself and cannot sit up in an arm chair without being strapped in to keep him from falling over." His present condition is but the aggravation of the disease for which he was originally pensioned.

We therefore recommend the passage of the bill.

C

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 954.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 6, 1885.—Ordered to be printed.

Mr. CAMERON, of Pennsylvania, from the Committee on Military Affairs, submitted the following

## REPORT:

[To accompany bill H. R. 1389.]

*The Committee on Military Affairs, to which was referred the bill (H. R. 1389) for the relief of Myron E. Dunlap, respectfully reports:*

That it has considered the bill (No. 1389) for the relief of Capt. Myron E. Dunlap, and with a view of excluding all claim for pay or compensation, which Captain Dunlap does not at all desire, only desiring the restoration of his good name on the records of the War Department, the committee reports the bill back to the House with an amendment, to wit:

Strike out all after the word "out," in the eighth line, down to and including the word "sixty-five," in the tenth line, and insert "of the military service of the United States on the 23d day of July, 1864." This is the date of Captain Dunlap's resignation.

The Committee on Military Affairs of the Forty-seventh Congress favorably reported a bill for the relief of Captain Dunlap. It appears to your committee that the facts and reasons set forth in that report conclusively show that the relief sought for should be granted. Your committee therefore adopts that report, which is as follows:

The Committee on Military Affairs, to which was referred bill H. R. 1445, for the relief of Myron E. Dunlap, respectfully reports the accompanying bill as a substitute, and recommends its passage.

Myron E. Dunlap entered the military service of the United States as second lieutenant of Company I, Seventy-eighth Regiment New York Volunteers. His associates in that regiment bear testimony to his fidelty to duty as an officer during the time he served with it. He was honorably discharged from that regiment on the 6th day of December, 1862. The motives which led to his discharge were these: His health had become impaired and he felt unable to perform the duties devolving upon him. He subsequently entered the military service as first lieutenant in the Fourteenth New York Artillery, and served with that regiment until the 23d day of January, 1864, when he was sentenced by a general court-martial to be cashiered and to be forever disqualified from holding any office of profit or trust under the United States Government.

During the time he served in the Fourteenth Regiment of Artillery he made an excellent military record. Lieut. Theo. P. Cook, of the Fourteenth New York Artillery, says:

"He (Dunlap) went to the field with the Fourteenth New York Artillery and was with the regiment doing active service from the crossing of the Rapidan until the time of his discharge, and was with the regiment in all the engagements during that time. At the battle of the Wilderness he was conspicuous in commanding the skirmish line in front of our brigade, and in capturing a number of prisoners. Again, on the 17th of June, 1864, at Petersburg, he had charge of the skirmishers in our front, and was exposed to a galling fire most of the day. In the evening of the same

day he was wounded in the shoulder from a piece of shell which glanced from a tree near where the line was being formed. Lieutenant Dunlap was a brave, honorable soldier, and I have always regarded his dismissal as a great outrage and a crime, and the Government ought to set it right by placing him back on the muster-rolls of his regiment, and by treating him in all respects as though he had been mustered out with his regiment at the close of the war."

Lieut. C. A. Vedder, of the same regiment, testifies substantially in the same way, and speaks in the highest terms of the soldierly qualities and bearing of Lieutenant Dunlap.

Col. John Fisk, of the Second Mounted Rifles, New York Volunteers; Capt. B. R. Keefler, of the Seventy-eighth New York Volunteers; General E. G. Marshall, who commanded the brigade in which the Fourteenth New York Artillery was placed, severally speak in the most complimentary manner of Lieutenant Dunlap's high character and efficiency as an officer.

It also appears that Lieutenant Dunlap was active in raising two companies for the service, the first of which was attached to the Seventy-eighth New York Regiment, and of which Dunlap was second lieutenant. The other company was attached to the Forty-eighth New York Artillery, and Dunlap was made first lieutenant of that company.

There is no doubt whatever that the conduct of Lieutenant Dunlap, from the time he first entered the service up until the time he had some difficulty with the officer in command of the Fourteenth New York Artillery, was unexceptionable and praiseworthy. The difficulty arose in this way: Dunlap was senior first lieutenant of Company A on the first day of June, 1864, when he was transferred to Company C, in which he was junior officer. He protested against this transfer, and addressed his protest to brigade headquarters, but no notice having been taken of it, Dunlap believes that Capt. L. J. Jones, the officer in command of the regiment, did not forward it. He inquired of Captain Jones why it was that he was transferred from Company A to Company C. Captain Jones replied that he was incompetent to command a company.

On the 24th day of July, 1864, Dunlap was transferred to Company E of his regiment. He felt that the last transfer indicated an intention not to return him to his own command, where he would have been in the line of promotion. Feeling aggrieved, Lieutenant Dunlap tendered his resignation, whereupon Captain Jones procured charges to be made against him. A court-martial was convened at the headquarters of the First Division of the Ninth Army Corps. The charge was, "conduct prejudicial to good order and military discipline." There were two specifications to the charge. The first set forth that Dunlap did tender his resignation while in front of the enemy and under their fire. The second, that he did offer as a reason why his resignation should be accepted that he was incompetent. When the charges and specifications were read to him he asked that the hearing should be continued to the next day. This was refused. He informed the court that he would plead guilty to the specification that he had tendered his resignation, but to nothing else. The court thereupon considered the case, found him guilty of the charge and specifications, and sentenced him to be cashiered and forever disqualified from holding any office of profit or trust under the United States. When apprised of the civil disabilities imposed, Dunlap made application to the President for their removal, which was granted upon the recommendation of Judge-Advocate-General Holt. The following is his opinion:

WAR DEPARTMENT,
BUREAU OF MILITARY JUSTICE,
*October* 5, 1864.

To the PRESIDENT:

In the case of Lieut. Myron E. Dunlap, Fourteenth New York Heavy Artillery, the following report is respectfully submitted:

He was tried by general court-martial at headquarters First Division Ninth Army Corps, July 28, 1864, for "conduct prejudicial to good order and military discipline." There were two specifications to the charge. The first set forth that he "did tender his resignation while in front of the enemy and under their fire." The second set forth that he "did offer as a reason why his resignation should be accepted that he was incompetent." He pleaded guilty to the specifications, and not guilty to the charge. He then requested an extension of time, to produce a witness for the defense, which the court refused. He was found guilty of the charge and specifications, and sentenced "to be cashiered and forever disqualified from holding any office of profit or trust under the United States."

Lieutenant Dunlap, in making application for removal of the disability imposed by the sentence, says that the judge-advocate of the court had expressed the opinion that no severe punishment could be inflicted, and if the court thought the case merited so severe a punishment, they should have given him the benefit of all the evidence he could produce. In a case of this description, in which the gravity of the

offense depends so much upon the circumstances under which it was committed, every opportunity should have been given for the introduction of evidence.

No evidence was offered, and the accused did not avail himself of the privilege of making a statement. It appears, however, from the copy of a communication addressed by Lieutenant Dunlap to the assistant adjutant-general, Ninth Army Corps, that his reason for offering his resignation was, that he had been in command of Company A, and on June 1, 1864, was transferred to Company C, in which he was junior officer, the commanding officer of the regiment giving as a reason for the transfer that he was incompetent to command a company. He protested to the commanding officer of the brigade, but no notice was taken of his protest; he remained with Company C until July 24, when he was ordered to take command of Company E. Feeling that if he was incompetent to command Company A he was equally incompetent to command Company E, he offered his resignation on the ground of incompetency.

It is probable that his action was dictated by wounded pride, and not by a consciousness of incompetency; but though it was highly improper and deserving of punishment, it is conceived that the sentence of the court is heavier than the circumstances justified, especially as there is no express allegation in the specifications, and no evidence upon the trial that his conduct was the result of cowardice or other improper motive.

Lieutenant Dunlap has filed the petition of twenty-six officers of his regiment, in which they certify to his character as a man and his efficiency as a soldier, and ask that the disability imposed by the sentence be removed.

In consideration of all the circumstances of the case, and the high standing of Lieutenant Dunlap as an officer, it is recommended that the request of the petitioners be granted.

J. HOLT,
*Judge-Advocate-General.*

The adjudication of this case is singularly objectionable. The denial of Dunlap's request for the postponement of the hearing that he might produce witnesses was extraordinary even for a court-martial; for the Army Regulations expressly provide that the judge-advocate shall summon the necessary witnesses for the trial; and the Articles of War also provide for the taking of depositions of witnesses.

See article 74, edition 1861, and article 93 of the revised Articles of War, which says: "A court-martial shall, for reasonable cause, grant a continuance to either party for such time and as often as may appear to be just." Also, in the decisions of the Judge-Advocate-General (1880), page 299, paragraph 13, it is made the duty of the judge-advocate of the court to see that the accused has a fair trial and an opportunity to make full defense.

In addition to this the Army Regulations expressly authorized volunteer officers to resign. On page 12, Army Regulations, 1861, paragraph 24, it is provided that "no officer will be considered out of the service on the tender of his resignation until it shall have been duly accepted by the proper authority." And paragraph 28, on same page, says: "In time of war, or with an army in the field, resignations shall take effect within thirty days from the date of the order of acceptance." Again, on page 497, Army Regulations, 1861, paragraph 1647, we find authority for resignations in the following most emphatic language: "Officers of the volunteer service tendering their resignations will forward them through the intermediate commanders to the officer commanding the department or *corps d'armée* in which they may be serving, who is authorized to grant them honorable discharges"; not to court-martial them for it, but to grant them honorable discharges, as the law provides. (*Vide* act approved July 22, 1861, section 10; Army Regulations, 1863, page 507.)

In the digest opinions of the Judge-Avvocate-General, page 430, he says:

"While in time of peace an officer in the Army in good standing is in general entitled to tender and have accepted his resignation, yet, in time of war, or when grave embarrassment to the service or prejudice to discipline may result from his leaving his duty, the acceptance of his resignation may be refused."

But nowhere does he say that an officer in time of war shall be court-martialed and dismissed for tendering his resignation, except in the case where it is tendered pending an engagement, and then the charge against him would be cowardice and not "conduct prejudicial to good order and military discipline," as charged in this case.

As to the proper form of relief in such cases, it is laid down in the decisions of the Judge-Advocate-General, *supra*, page 478:

"In the case of a volunteer officer unjustly dismissed by sentence or order during the war, and applying for restoration, there is the obstacle (not encountered in the case of a regular officer) that the volunteer contingent of the Army has been long since disbanded, so that a restoration to office in the same is impracticable. And as a dismissed officer cannot of course be granted an honorable discharge from the Army without being first readmitted to the Army by a new appointment, and as a volunteer officer cannot as such be so readmitted, advised (February, 1880), in a case of a

volunteer officer applying for relief on account of an unjust dismissal, that the form of relief most opposite to his case would be a special enactment giving him pay from the date of his dismissal—reciting that the same was based upon insufficient grounds—to the date of the final muster out of his regiment, precisely as if he had continued in the service during the interval."

As several acts of Congress have been passed since the close of the late war for the purpose of correcting the military records of dismissed officers and privates, the relief sought for in this case is not without precedent.

The following are some of the acts of Congress passed at former sessions to correct military records and grant honorable discharges: See Private Acts, 1st sess. 44th Cong., p. 7, act April 13, 1876; Private Acts, 1st sess. 43d Cong., p. 366, No. 87; p. 383, No. 147; p. 437, No. 244. See also pp. 343, 367, 394, 491 of same session. Acts were also passed at previous and subsequent sessions.

General Marshall, whose brilliant military record and high character entitle whatever he may say to the highest consideration, wrote a letter in relation to the petition of Lieutenant Dunlap, as follows:

LEHIHA GAP, PA., *January* 31, 1882.

General THOMAS M. BAYNE, M. C.:

DEAR SIR: I have fully examined the case of the dismissal of First Lieut. M. E. Dunlap, Fourteenth New York Artillary, who was so dismissed for tendering his resignation. I was absent on account of wounds, and firmly believe if I had been present commanding my brigade, of which my regiment, Fourteenth New York Artillery, was then a part, that he would not have been brought before a court-martial. I feel certain that if the late General and Senator Burnside was alive he would as feelingly as myself coincide with me that an error, a great moral wrong, had been done this officer in his dismissal. I can only account for it that the Ninth Army Corps about that time went into the charge that succeeded the Petersburg mine explosion.

I shall be thankful if you will please examine his case in its legal sense; also, if you desire, my military record, and trust you will take an interest to correct the great wrong done him, his children, and family. I know him in no other light than as a gallant and faithful officer, and I can have but one feeling of asking that justice may be done him.

I am, very respectfully, your obedient servant,

E. G. MARSHALL,
*Col. and Bvt. Brig. Gen., U. S. A., and Bvt. Maj. Gen. Vols.*

Lieutenant Dunlap simply desires that the stain upon his record shall be removed. He does not ask for pay or allowances of any kind. The restoration of his good name is all that he seeks for. The question as to the power of Congress to set aside the judgment of the court-martial ought not to be raised in this case. Whatever may be the power of Congress in that regard, it will surely not be contended that a judgment founded upon a charge under an Article of War which had no application, and a specification which was not cognate to the charge, can be otherwise than nugatory. It lacks such a judgment; lacks all the essentials of validity, and amounts to little more than a stain upon the military record of the party convicted.

Your committee contends, however, that Congress has power to set aside and make void the judgment of a court-martial, though it may be regular and strictly in accordance with military law. The power of Congress to legislate upon all subjects that fall within the purview of the Constitution is unlimited, unless the Constitution, expressly or by implication, forbids the exercise of the power. Congress has no power to pass a bill of attainder or an *ex post facto* law, nor any law which will impair the obligations of contracts. But when Congress enacts laws and Articles of War which subject certain classes of the people to their control to the performance of certain duties, or to the duties of the military or naval service, it can surely undo and extinguish that which has been done, regular or irregular, in pursuance of such laws, unless the undoing of it should violate some mandate of the Constitution.

The committee therefore holds that Congress has the power to remove the judgment in this case.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 955.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 7, 1885.—Ordered to be printed.

Mr. PIKE, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill S. 2151.]

*The Committee on Claims, to whom was referred the bill (S. 2151) for the relief of William H. Davis, of Oakland, Cal., having considered the same, beg leave to make the following report:*

That the facts in this case are well stated in the report of the Committee on War Claims, submitted to the House of Representatives in the Forty-seventh Congress, first session, and numbered 1358, which your committee adopt as a part of their report:

This claim is for the tearing up of a wharf and warehouse at San Diego, Cal., and the use of the same for fuel and other purposes by the United States troops, in December, 1861, and January, 1862.

The necessity for these acts on the part of the United States officers and soldiers camped in that vicinity at the time, according to the testimony, grew out of the fact of the unprecedented rainfall of that season, rendering it impossible to be otherwise supplied with fuel and material of that character to be used by the Army. This claim was not presented to Congress until 1874, and claimant gives as his reasons for not submitting the claim to the War Department, that he believed that Congress was the only tribunal that could afford him relief in the premises, and that he thought it incumbent upon him to furnish the necessary evidence, and that he pursued this course upon legal advice; and that as his witnesses lived scattered and at great distances from each other, and as he was financially unable, on account of business reverses, to defray the expenses in reaching his witnesses, he could only proceed with the case as he received assistance from time to time from his friends, and that it was under this advice and owing to his poverty that he delayed application for pay for the property thus taken possession of and used by the United States troops.

His claim was again presented to the Forty-sixth Congress, and was investigated by the Committee on War Claims, and that committee being satisfied that there were merits in the claim, reported a bill referring the case to the War Department for investigation, and to report back to Congress, which bill passed, and the investigation was made through the Quartermaster's Department by Lieut. Col. Rufus Saxton, chief quartermaster of the Military Division of the Pacific.

That investigation embraced the following points, as shown by the report of Lieutenant-Colonel Saxton:

"1st. *Title and incumbrances.*

"The title of the claimant in the said property is not questioned by any of the witnesses. The said wharf and warehouse were built by the claimant in 1850–'51, at his own expense, and he remained the owner of the said property until its alleged destruction by the United States Army in the winter of 1861–'62.

"Colonel Saxton further states on this subject that, by the records which he saw of the assessor's office of San Diego, Cal., the said property was assessed in Mr. Davis's (claimant's) name, for taxes for several years before 1861. No incumbrances appear to have been on the property.

"2d. *Status of claimant, whether loyal or not.*

"The loyalty of claimant during the late rebellion is fully and conclusively proven by the testimony of William Sherman, J. J. Warner, Charles Thorn, William F. Swasey, and O. C. Wheeler.

"J. B. Metcalf, esq., attorney in the case, also invites attention to testimony of loyalty on file with the Committee on War Claims, House of Representatives, given by the gentlemen named.

"In this connection, it is proper here to consider claimant's relation to the United States prior to the late war. He conveyed to the Government, by deed of gift, all the property now owned by the United States, valued at $40,000, in New San Diego, Cal., and also the franchise of his own wharf, for Government purposes, up to the time of its destruction in 1861-'62.

"3d. *The value of the property destroyed.*

"It is alleged by the claimant that the actual cost of construction of the said wharf and warehouse in 1851 amounted to $60,000 in United States gold coin, and that, owing to the large increase in traffic at the port of San Diego since 1868, he, on account of the destruction of his property in 1861-'62, sustained damage to present time (December, 1874), to the full amount of $121,200 in coin. The evidence on this point is very full and clear, and shows that the wharf and warehouse were substantial and costly structures, made of the best material.

"It is claimed by some of the witnesses that the wharf was in a dilapidated and rotten condition in 1861; that the "teredo" had damaged the piles of the wharf; that it was not considered safe to land troops or freight on it; that it had been considerably damaged previous to 1861 by steamers running into it, and by a severe storm in 1858 or '59, carrying a portion of the wharf away, &c.

"On the other hand, it is held that the said wharf and warehouse were in good, serviceable condition from the time they were constructed until destroyed in 1861-'62; that the wharf had suffered no material damage up to that time, and that the "teredo" had made no impression on the redwood piles of the wharf; that it was critically examined by experts, and found to be in a healthy and serviceable condition in 1861; and that some of the piles, not used or taken by the military, were withdrawn, found to be perfectly sound, and were used in the construction of another wharf at San Diego, in 1869."

It is thus seen that Colonel Saxton, as shown in his report just quoted, found that notwithstanding that there was a controversy as to the condition of the wharf, it was nevertheless in good condition when taken and used in 1861-'62. It very clearly appears from the record and brief in the case, that the attempt to show that this property was dilapidated and almost useless originated in a desire to defeat Congressman Page's re-election to Congress, he having originally introduced the bill for the relief of the claimant, and his political opponents having conceived the idea of showing this claim to be fraudulent.

This effort, however, failed, for Lieutenant-Colonel Saxton expressly declares that the great preponderance of testimony, as shown by the references made by him to the record and brief, shows that the warehouse and wharf were in good condition at the time taken and used. And he says:

"Practical and experienced constructors of wharves on the Pacific coast, and who were familiar with the Davis wharf, estimate its value from $60,000 to $80,000."

Quartermaster-General Meigs, in reporting this case back to Congress, after it had been investigated by Lieutenant-Colonel Saxton, himself says:

"The wharf and warehouse gave a net revenue of $1,800 per annum, which is 6 per cent. on a capital of $30,000, and had it been maintained for seven years longer, *i. e.*, till 1869, would then have been worth $60,000."

Taking all the facts together, while it will not be an adequate remuneration for the losses of the claimant, the committee are constrained to report back bill H. R. 3222 and recommend its passage, allowing claimant the sum of $20,000 *as at least a partial act of justice.*

It will be seen that the above committee thought the payment of $20,000 would be a "partial act of justice."

Secretary Lincoln, in his letter to the Speaker of the House of Representatives, dated December 13, 1881, accompanying the report of Colonel Saxton, recommended the payment of $3,000 with interest from February 1, 1862, in full satisfaction of the claim.

It is evident there is a just claim for something; but how much, your committee are in doubt.

The case is a proper one for the Court of Claims.

Your committee understand that the act of March 3, 1883, commonly called the Bowman act, does not repeal section 1059 of the Revised Statutes of 1878, nor does it repeal that part of section 1059 of the Revised Statutes of 1878 which gives the Court of Claims jurisdiction to hear and determine "all claims which may be referred to it by either

house of Congress." In the above-mentioned case the court has jurisdiction to render judgment. (See Rules of Court of Claims, 1884, note on p. 63.)

Your committee herewith report a resolution referring the whole matter of the claim of William H. Davis to the Court of Claims under section 1059 of the Revised Statutes of 1878.

All the evidence in the case taken before Colonel Saxton is contained in House Ex. Doc. No. 9, Forty-seventh Congress, first session, and the original is on file in the War Department, and, as the committee understand by the rules of the Court of Claims, is accessible to all the parties in interest.

Your committee recommend that the bill (S. 2151) be indefinitely postponed, and that the accompanying resolution pass.

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'TH CONGRESS, 2d Session. | SENATE. | REPORT No. 956.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 7, 1885.—Ordered to be printed.

r. KENNA, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 2185.]

: *Committee on Claims, to whom was referred the bill (H. R. 2185) for he relief of Rosa Vertner Jeffrey and others, submit the following eport:*

Claude M. Johnson, who died shortly before the late war, was a resi-nt of Lexington, Ky. He and his wife, Rosa Vertner, were joint 'ners of the Canton plantation, in Tensas Parish, Louisiana, about miles below Vicksburg. He devised his undivided half of said antation to his four minor children, and the ownership has remained ontinuous and undivided to the present time, as appears by the certifi-ate of the parish recorder.

The widow married her fellow-townsman, Alexander Jeffrey, in May, 862, and has been ever since under such coverture. That same year he and her children removed from Lexington to Rochester, N. Y., and emained there till 1867. The eldest child was but thirteen years of age when the war began. In 1873 an award for live stock taken and nsed by the Federal Army was made to Mrs. Jeffrey and her children by the late Southern Claims Commission, the proofs of loyalty being pro-nounced highly satisfactory to that tribunal, and stress being laid upon the fact that she and her children had never been residents of insurgent territory. The award was approved by both houses of Congress and was paid in 1874, the report of the commissioners being filed in the Third Auditor's office and numbered 34447 on the docket of that office.

The plantation in Louisiana was managed by an overseer, who has lately testified that it contained 2,300 acres, upon which he raised 630 bales of cotton in 1861 and 270 bales in 1862. There were no later crops, the overseer leaving in 1863 and the hands having become scat-tered, and many of them taking to work on the military canal or cut-off constructed during the siege of Vicksburg. The cotton constituting the crops of 1861 and 1862 was stored, the overseer says, partly in the gin-house and partly in an adjacent canebrake, and so remained at the time of his departure.

In the spring of 1874, the steamboat Baltic, one of the vessels of the Mississippi River Marine Brigade, was engaged in transporting aban-doned and captured cotton from the adjacent parts of Louisiana to Vicksburg, Major Tallerday, of the brigade, being the officer in charge of the duty. While on an expedition to the neighborhood of the Can-ton plantation, Major Tallerday learned from some negroes of the ex-istence and whereabouts of the cotton belonging to these claimants,

and as the owners were absent and the plantation abandoned, he determined to remove the cotton under his general instructions. He accordingly took his boat to the nearest landing, impressed a large number of negroes and teams, got the cotton on board, proceeded to Vicksburg, went to the office of the Treasury agent and had one of the assistants sent to the wharf, and to him delivered by count 820 bales of cotton.

The circumstances of this seizure and the delivery to the cotton agent are fully and distinctly set forth in the affidavits of Major Tallerday (now a shoe manufacturer at Chicago); Lieutenant Lemmon, of New Albany, Ind., who was a subordinate officer of the detachment; Orderly Sergeant Torrey (also now of Chicago), who kept tally of the bales, and Messrs. Charles H. and James H. Meeken, and William Harley, all of New Albany, who were, respectively, captain, pilot, and mate of the boat.

Col. John A. McDowell, of Chicago (brother of Major-General McDowell), was the Treasury agent at Vicksburg, and is now a civil engineer at Chicago. He testifies that cotton was brought from Louisiana to Vicksburg during the spring of 1864, by the Mississippi Marine Brigade, but he cannot now remember particulars; that most of the so-called abandoned cotton came without description; that he was absent at Memphis on duty for a part of time during which cotton was received and disposed of at the agency; that some of the cotton was taken for military purposes, and that when he finally left in July, 1864, there were nearly 2,000 bales, mostly without history, the disposition of which fell to his successors.

Three freedmen, named Craig, Osley, and Rainey, testify to their having personally assisted in the removal of the cotton by Major Tallerday, and they substantially confirm the testimony of the overseer and the Government officers as to the amount and location of cotton, and the time and manner of its removal.

Under the act of March 12, 1863, commonly known as the "abandoned and captured property act," suit might and should have been brought upon this claim in the Court of Claims prior to June 20, 1868. But Mrs. Jeffrey testifies that such news as reached her at her distant home in Rochester was to the effect that the Confederate forces had burned all the cotton in the vicinity of their plantation, so that there was nothing to put her on inquiry or to justify the expense of a journey to Louisiana in search of information about their cotton. But in 1873 she and her husband went to Louisiana to obtain evidence in support of a claim for live stock which she had presented to the then lately-instituted Southern Claims Commission, and she then learned for the first time of the secreting of the cotton and its seizure and removal by the Federal authorities. Such evidence as was then available was obtained and submitted with a petition to Congress, and this evidence is summarized and commented upon in the Senate Report No. 439 of the Forty-third Congress, first session. The conclusion reached by the committee, to whom the petition was referred, is stated in the following extract from the report:

> For a claim of this magnitude, subject to be established wholly by *ex parte* evidence, it is very imperfectly made out, and we cannot recommend its payment in the *present* condition of the proofs.

In 1882 Mrs. Jeffrey's son Claudius, one of the beneficiaries of the claim under his father's will, being then twenty-nine years old, undertook a quest for the evidence which his mother and her counsel had

ailed to obtain at the time application was made to Congress in 1874. He secured the assistance of Captain Aiken, a distiller at Lexington, who had been a commissary in the Federal Army during the war, and they two, guided by some scanty notes of information jotted down by Mrs. Jeffrey's husband at the time he accompanied his wife to Louisiana in 1873, visited Tensas Parish, Chicago, and New Albany, and there found the witnesses, and procured the testimony above mentioned and described.

Upon this evidence, necessarily *ex parte*, as there was no court or other tribunal before which the witnesses could be produced for examination and cross-examination, the claimants ask in effect that they may be permitted *nunc pro tunc* to file their petition in the Court of Claims, where the questions of law and fact involved may be judicially ascertained and determined, and where, upon proof of their actual loyalty, their ownership of the cotton and its appropriation by the United States, they may have judgment for the net proceeds or value thereof.

The pending bill does not propose to allow or validate the claim, but only to give the parties their day in court, where the burden of proof will rest upon them, where their proofs must be adduced in conformity to the strict rules of the law of evidence, and where the machinery of defense is now most efficiently organized. In that court the *ex parte* affidavits offered here for the purpose of establishing a *prima facie* claim to relief will not be admissible, but every word of testimony must be given in the presence and subject to the cross-examination of the counsel for the Government.

By the rule of the common law the statute of limitation has not yet begun to run against Mrs. Jeffrey, she having been continuously under coverture ever since her right of action accrued. She is only barred from the Court of Claims by reason of the peculiar language of the statute conferring jurisdiction over claims of this nature, and of the omission from that statute of the customary *proviso* saving the rights of married women and minors.

With regard to the children, the eldest, if then living, could not have been more than twenty years old when the time expired for suing in the Court of Claims; so that, by the common law, the statute of limitation has not run against them, as the court has not been open to them since their release from wardship.

There has been no actual negligence on the part of these claimants. They have never lived near the *situs* of their claim. The reports that reached them at Rochester of the burning of their cotton by the Confederates were reasonable, because in 1863 and 1864 the policy and practice of the insurgents concurred in that mode of preventing Federal spoliation. Their plantation was a wreck and a desert from 1863 to 1869, when Mrs. Jeffrey made a flying visit there to lease it out at a nominal rent, evidently to preserve the soil to the family. There was no reasonable occasion nor necessity for any of the claimants to visit the locality prior to the establishment of the Southern Claims Commission (which, however, had no jurisdiction of claims of this sort), and Mrs. Jeffrey was diligent in bringing before Congress, the only tribunal open to her, such evidence as she could find upon hearing of the real disposition of her cotton.

Nor is the delay since 1874 censurable. The report of the Senate committee referred to herein, though just in spirit and kindly expressed as if the committee felt that the trouble lay with the evidence and not with the merits of the case), unmistakably pointed out the almost hopeless character of the claim. Twice in their report the committee com-

ment on the want of evidence to show what disposition was made of the cotton, which was, naturally, the evidence hardest to find. Mr. Johnson mentions in his affidavit, herewith, that when he took the case in charge personally his mother's attorney excused the delay by saying that he had not had the means to search for evidence, from which it may be inferred that pecuniary considerations are accountable in part for such delay as there has been. The association of Captain Aikin in the quest for evidence suggests also a lack of knowledge and experience in the claimants and their prior counsel as to how and where to begin and to continue their researches. Captain Aikin says in his affidavit, herewith, that it required a long and expensive search to find Major Tallerday, the only clue to him being a note entered in Mr. Jeffrey's memorandum book of 1873. This statement will not surprise anybody who has had experience of the time and labor frequently necessary to the finding of commissioned officers whose evidence is needed in support of pension claims.

The claimants are meritorious. They are citizens of a loyal State and voluntarily removed, during the war, from debatable ground into a community of ultra-loyalists—Western New York. Their loyalty has been judicially ascertained by the Southern Claims Commission, which said in its report (No. 34447, Third Auditor's docket):

> These children were too young to have any responsible political opinions, and were not in any State that seceded at any time during the war. * * * Mrs. Jeffrey * * * was at no time during the war within a seceding State. * * * That she was devotedly attached to the Union is apparent in all her statements, and her continuous residence in loyal States is presumptive evidence of loyalty, and nothing appears against it.

The evidence offered establishes a *prima facie* case of the taking and appropriation to the use of the United States of upward of 800 bales of cotton. Ex-Treasury Agent McDowell proves that large amounts of cotton were received and disposed of under circumstances completely consistent with this claim, and the several affidavits of Major Tallerday, Lieutenant Lemmon, Sergeant Torrey, and the steamboat officers (the latter being apparently substantial citizens of New Albany) concur in the establishment of every material fact necessary to entitle the claimants to the relief sought.

Your committee respectfully recommend the passage of the House bill.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 957.

IN THE SENATE OF THE UNITED STATES.

JANUARY 7, 1885.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

# REPORT:

[Relative to bill S. 864.]

The Committee on Claims, to whom was referred bill S. 864, for the relief of William G. Ford, administrator of John G. Robinson; bill S. 866, for the relief of John F. Kranz; and bill S. 1167, for the relief of the estate of Marcus Walker, beg leave to report that, having referred the said claims to the Court of Claims under the provisions of an act entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government," approved March 3, 1883, said claims have been returned by the said court to the committee as not coming within the jurisdiction of the court under the act referred to.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 958.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 7, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill H. R. 1567.]

*The Committee on Pensions, to whom was referred H. R. 1567 and Senate bill 1042, "for the relief of the legal representatives of the late Capt. John G. Tod," have examined the same, and report as follows:*

That bills for the relief of John G. Tod, late captain in the navy of Texas, and of his legal representatives, have received repeated favorable reports in the House of Representatives since the Forty-fourth Congress, and have several times passed the House without receiving the action of the Senate. The facts of the case are fully and correctly set forth in the last report of the House at the first session of the present Congress, as follows:

*The Committee on Naval Affairs, to whom was referred the bill (H. R. 1567) for the relief of the legal representatives of Capt. John G. Tod, of Texas, report:*

That after the failure of the treaty by which Texas was to have been annexed to the United States, and the consummation of the annexation by resolution, much dissatisfaction existed among the citizens of Texas because of the failure to transfer the officers of the navy of Texas to the Navy of the United States, with rank and emoluments corresponding with rank and emoluments held and enjoyed by said officers in the navy of Texas, as was provided for in the inoperative treaty; and that, as it was ascertained that such transfer was impossible of accomplishment by reason of that provision in the Constitution of the United States which imposes on the President the duty of appointing the officers of the Navy of the United States, Congress did, as compensation for the non-performance of the stipulations contained in said inoperative treaty, pass a law, approved March 3, 1857, entitled "An act making appropriations for the naval service for the year ending the 30th of June, 1858," the twelfth section of which act is as follows:

"That the surviving officers of the Republic of Texas, who were duly commissioned as such at the time of annexation, shall be entitled to the pay of officers of the like grade when awaiting orders in the Navy of the United States for five years from the date of said annexation, and a sum sufficient to make the payment is hereby appropriated, out of any money in the Treasury not otherwise appropriated: *Provided*, That the acceptance of the provisions of this act by any of the said officers shall be a full relinquishment and renunciation of all claims on his part to any further compensation on his behalf from the United States Government to any position in the Navy of the United States."

And that it has been settled by the Supreme Court of the United States that the annexation of Texas to the Union was consummated on December 29, 1845; and that it was settled by the Court of Claims of the United States, in the case of E. M. Moore *vs.* United States (4 Nott & Huntington, p. 139), that "John G. Tod was a captain in the Texas navy at the time of annexation"; and that this decision of the Court of Claims is fully sustained by the commission of the said Capt. John G. Tod now on file in the Navy Department, signed by the President of the Republic of Texas, dated July 12, 1845, more than five months prior to the date of annexation, according to the

decision of the Supreme Court of the United States, a certified copy of which commission is on file with the committee. And that Capt. John G. Tod did, by his attorney, J. B. D. De Bow, a few weeks prior to the 10th day of June, 1857, file his claim with the Navy Department for five years' pay, as provided under the law of March 3, 1857, hereinbefore referred to; which proffer to accept the terms thereof did vest in the said Tod an immediate fixed right of present and future enjoyment of the benefit of said law.

And your committee further find that Capt. John G. Tod, some time in the latter part of the year 1877, departed this life, leaving in Harris County, State of Texas, a wife and one son and one daughter, and that the county court of said Harris County, in said State of Texas, on the 8th day of October, 1877, ordered that letters of administration on the estate of John G. Tod be issued to Maggie G. Tod, as appears by a copy of said order and the letter of the attorney of the heirs on file with the committee.

And your committee find further that relief as prayed for under the bill referred has been afforded by act of Congress in like cases under the law hereinbefore referred to, as will appear by reference to the United States Statutes at Large, as follows:

Forty-third Congress, first session, p. 608, chap. 403, "An act for the relief of the heirs at law of William C. Brashears, of the Texan navy"; Forty-fourth Congress, first session, p. 454, chap. 209, "An act for the relief of Susan E. Rhea, widow of Dr. L. Burrows Gardiner."

It appears that Captain Tod was the last of the surviving officers contemplated by the act of March 3, 1857, and your committee deem it but a simple act of justice that his legal representatives should receive the same benefits as were extended by said act to the other officers of the Texan navy. They accordingly report back the House bill with the recommendation that it be passed by the Senate.

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48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 959.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 7, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill S. 2296.]

*The Committee on Claims, to whom was referred the bill (S. 2296) for the relief of Thomas A. McLaughlin, have examined the same and report as follows:*

The bill directs the Secretary of the Treasury to pay to Thomas A. McLaughlin, out of any money in the Treasury not otherwise appropriated, the sum of $824.22 "in full payment for extra work done in the construction of the central gate-house in the distributing reservoir of the Washington Aqueduct, and for loss of material occasioned by turning water into said reservoir before the completion of said gate-house." It appears from the papers in the case that on the 13th March, 1872, the said McLaughlin entered into a written contract with O. E. Babcock, major of Engineers, U. S. Army, and chief engineer of the Washington Aqueduct, for the full and final completion of the central gate-house in the distributing reservoir of said aqueduct; that by the terms of said contract McLaughlin was to furnish all the material and labor necessary for the construction of the work, which was to be performed according to certain specifications and drawings, which were annexed to and made part of the agreement. The prices for the different parts of the work were separately set forth in the contract; thus for *stone masonry* the contractor was to be paid $14.90 per cubic yard, and the approximate estimate of the quantity of *this* work was set out in the specifications as 648 yards. But it was provided that the prices and amounts to be paid under the contract referred simply to the quantities of work which should be done, as the final measurements of the work might prove them to be. It was further stipulated that "if the quantities be increased such increase shall be paid for only according to the actual quantities and at the prices established under this contract." The right to make alterations was reserved, and it was distinctly provided that "in all questions regarding the work the *decision* of the engineer (which was deemed to mean either the chief or assistant engineer employed upon the work) *shall* be *final*." The work was to be fully completed by the first day of June, 1872. This time was subsequently extended, at the request of the contractor to July 1, 1872, in order to allow him to build the structure of Seneca stone. It was further provided that "a penalty of $5 per day for each and every day's delay beyond the time mentioned for the completion of the work will be charged to the contractor, and the *amount of said charges* shall be forfeited to the *United States as liquidated damages*."

The work was not finished until some time in February, 1873, making a delay of over 200 days, for which, under the "liquidated damages" clause the contractor might probably have been subjected to a charge of $1,000, or more.

Payments were made the contractor during the progress of the work to the extent of $14,371.24, and on the 3d March, 1873, the assistant engineer, Colonel Samo, made his final estimate of the total amount of work done to that date on the gate-house of the distributing reservoir by the contractor, which aggregated the sum of $15,577.18, and showed a balance of $1,205.94 still due McLaughlin, which balance was paid him. This estimate of the assistant engineer set out each item of the work separately, the *stone masonry* being estimated at 734.09 cubic yards, which, at $14.90 per cubic yard, made the sum of $10,937.94. After this estimate and settlement of the balance shown to be due him, McLaughlin, under date of April 11, 1873, addressed to General O. E. Babcock, engineer in charge of the aqueduct, a communication calling his attention to—

an inclosed bill for work done upon the gateway of the distributing reservoir which was not included in my contract. The walls are thicker than those laid down on the plans originally submitted, and the slopes and ends are all finished in a different manner. Colonel Samo's measurements of the masonry were made from the drawings, and the amount allowed by him is less by 45 yards than I am entitled to according to the mode of measurement universally adopted in this District.

The bill thus submitted by McLaughlin was as follows, viz:

WASHINGTON, *April* 5, 1873.

Amount of work at central gate-house distributing reservoir, and not included in estimate:

| | |
|---|---|
| (1) 45¼ yards masonry, at $14.90 | $675 25 |
| (2) 100 loads of sand lost by filling reservoir with water | 100 00 |
| (3) 12 barrels of cement | 24 00 |
| (4) Ditching and bailing water, filling back of masonry, cleaning and repairing damages caused by filling reservoir with water | 200 00 |
| (5) For loss on material and labor on account of change of plan | 150 00 |
| | 1,149 25 |

This letter and claim of the contractor was referred by the chief to the assistant engineer, who, under date of April 14, 1873, returned the following report thereon:

OFFICE OF THE WASHINGTON AQUEDUCT,
*Washington, D. C., April* 14, 1873.

GENERAL: I respectfully submit the following statement in reference to the letter and account of Mr. T. A. McLaughlin, for extra work on the central gate-house, referred to me this day for report.

The first item of Mr. McLaughlin's account is "To 45¼ yards of masonry at $14.90 $675.25." In reference to this item, Mr. McLaughlin states that the amount allowed him is less by 45 yards than he is entitled to, according to the mode of measurement universally adopted in the district. He also states that the walls are thicker than those laid down on the plan, and that my measurements were made from the drawings. It is true that the walls are thicker than shown on the original plan. At the top they are 3¼ feet thick; on the original plan they were 2¼ feet. The contract expressly provides that "the quantities and dimensions of the work may be altered from what is shown on the plan," and that "if the quantities be increased, such increase shall be paid for only according to the actual quantities, and at the prices established in the contract."

In making the final estimate, I measured the work as built, and calculated the quantities from the actual measurements.

I do not know what the custom is here, but I believe an allowance is sometimes made for cutting square corners. In the contract it states as follows: "It is hereby understood that the prices and amounts paid under this contract refer simply to the quantities of work which shall be done, and no claims growing out of misconception of the quantities or kind of work" "are to be allowed or considered valid."

The second item is for 100 loads of sand, lost by filling reservoir with water—$100.

The third item is for 12 barrels of cement, $24. I do not remember that any cement was damaged by filling the reservoir. The contractor was notified that the reservoir was to be filled, and I think he could have removed the cement to a safe place. The sand was damaged and washed away; I cannot say to what extent. The reservoir was not filled with water until after the time for the completion of the contract.

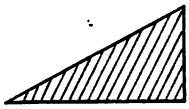
The fourth item is for ditching and bailing water, filling back of masonry, cleaning and repairing damages caused by filling the reservoir with water, $200.

The contract states that all bailing, pumping, damming, and draining shall be at the expense of the contractor. The back filling was included under the head of excavation in final estimate.

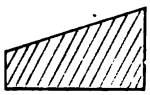
The fifth and last item, "for loss on material and labor on account of change of plan," $150.

The plan has not been changed. In this item, I believe, Mr. McLaughlin refers to the manner in which I required the top course of stones to be cut for the wing wall.

The contract states that vertical joints shall be "full to the square" for at least 10 inches. The top of the walls has a slope of 2 to 1, and the stone-cutters commenced to cut them like this:



The result was that the edge of the stone, being cut so thin, would get broken, and the joint would not be full to the square for over 1 inch. I therefore directed them to cut like this:



All the work done by Mr. McLaughlin was well done, and done strictly in accordance with the terms of his contract and specifications, with the single exception that he did not complete it within the time specified.

Very respectfully, your obedient servant,

THEODORE B. SAMO,
*A. E. W. A.*

General O. E. BABCOCK, U. S. A.,
*Chief Engineer, Washington Aqueduct.*

The claim of the contractor was thereupon disallowed by the chief engineer—it appearing that McLaughlin was mistaken in supposing that Colonel Samo's estimates of the masonry were made from the *drawings instead of actual measurement* of the work. McLaughlin subsequently applied to Congress for relief, and several reports have been made by the House Committee on Claims, at the third session Forty-fifth, second session Forty-sixth, first session Forty-seventh, and first session Forty-eighth Congress, favoring an allowance of the first and last items of his account, amounting to $824.22, the sum which the present bill proposes to pay him. The item of 45⅓ yards of masonry, at $14.90, making $675.25, which it is claimed was not included in the final estimate of the assistant engineer, above referred to, is sought to be sustained by the testimony of John C. Harkness, who testifies that for many years he has been a builder and architect and measurer of builder's work, &c.; that in April, 1873, after the completion of the gate-house, he measured the stone masonry done by McLaughlin upon said work and found after a careful and accurate measurement that said masonry amounted to 779$\frac{11}{27}$ cubic yards, or 45⅓ cubic yards more than estimated by the assistant engineer. What mode of measurement was adopted by said Harkness does not appear. It seems that according to some modes of measurement prevailing in the District allowances beyond the actual

quantities are made for cutting square corners. But by the express terms of the contract the prices and amounts to be paid referred simply to the *actual* quantities of work which should be done. Even if such allowances were not made by Harkness there is nothing to show that his measurements and estimates were more accurate and more entitled to consideration than those of the assistant engineer. Again, by the terms of the contract it was agreed that "in all questions regarding the work the decision of the engineer shall be final." Under those circumstances the evidence fails to satisfy your committee that there was a mistake of 45⅓ cubic yards against the contractor in the final measurement and estimate made by Colonel Samo, for which the sum of $675 is claimed, and in the opinion of your committee this item should be disallowed.

The items of $100 for 100 loads of sand, $24 for 12 barrels of cement, and $200 for ditching and building water filling in back of masonry, cleaning off mud and repairing damages caused by filling reservoir with water, should be disallowed. It appears that the reservoir was not filled till July 24, 1872, twenty-four days after the expiration of the extended time for completing the work, and that due notice was given McLaughlin that the reservoir was to be filled, and that he had ample time to remove his sand and cement to a place of safety. It also appears from the statement of the assistant engineer that the filling in back of masonry was included in his final estimate, while the draining, bailing, &c., was to be done at the expense of the contractor.

The last item of $150 for loss on material and labor on account of change of plan refers, as appears from above statement of the assistant engineer, to certain changes which he required should be made in the cutting of the top course of stones for the wing walls, which alterations involved loss to the contractor, for which, in the opinion of the engineer, a reasonable amount should be allowed him. The testimony fixes that allowance at $150, which, in the opinion of your committee, should be paid to McLaughlin in full of his claim.

Your committee accordingly recommend that the bill be amended by striking out the words "eight hundred and twenty-four dollars and twenty-two cents" in lines 6 and 7, and inserting in lieu thereof the words "one hundred and fifty dollars," and, as thus amended, that the bill be passed by the Senate.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 960.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 7, 1885.—Ordered to be printed.

Mr. SHEFFIELD, from the Committee on Claims, submitted the following

## REPORT:

*In the matter of the claim of E. A. Farr against the United States.*

The claimant represents herself to be the agent and attorney of the estate of S. O. Baker, to whom she alleges the United States were justly indebted in the sum of $17,707.36 for food and other supplies furnished sick, furloughed, and traveling soldiers in the city of New York in and between 1862 and 1864.

There is no allegation in the petition, and no evidence in the case, to show that the petitioner represents any person but herself, and she at one time represented herself to the Commissary-General to be the sister of Baker.

S. A. Baker while in life presented this claim to the Commissary-General of Subsistance in behalf of himself and of the firm of Baker & Carpenter, of which he was a member.

This claim is for rations furnished soldiers charged in large lump sums, and the remarkable fact is that Baker, in his lifetime, does not appear to have kept any books of account. The petitioner alleges that Baker died suddenly; that she knows nothing of the witnesses by which he attempted to support the claim before the Commissary-General of Subsistence. She appears to concede that the proofs were sufficiently defective to justify the Commissary in rejecting the claim, and yet, without further proofs than were submitted to that Bureau, she asks Congress to allow her claim.

The Bureau disallowed items No. 1, for $1,733.83, and No. 2, for $2,590.75. These items were disallowed because S. O. Baker swore upon the trial by military commission of one Thomas W. Johnston, who charged the Government therefor, that the rations, &c., were furnished for Johnston. Johnston was convicted and sentenced. Claim No. 3, for $10,554.04, was reduced to $9,879.07 and disallowed, because, on November 7, 1867, this item appears to have been paid and receipted for "in full" without protest or objection. Claim No. 5, for $66, claim No. 6, for $17.91, were disallowed because the items were included in payments made to Baker under date of November 7, 1867. Claim No. 7, for $15.60, was paid May 19, 1864. Claim No. 8, for $2,278.90, was paid to Baker on 19th of January, 1863, by General Eaton. These claims were examined by the board at the War Department, of which Major-General Hardie was president. They were also examined by the Commissary-General, and were personally examined by the Secretary of War, and were rejected by all who examined them. They were also reported upon adversely by the Committee on War Claims in the House in the Forty-seventh Congress.

General Eaton, in his report on these claims when they were sought to be enforced by Baker, says:

The whole account, therefore, now presented must be regarded a new attempt to defraud the Government, furthered, if not set on foot, by Thomas W. Johnston, after his enlargement from prison. The data for this claim do not seem to have been derived from any reliable books or papers in the possession of the claimant or his heirs, but to have been derived from the papers of Johnston and produced before the military commission before which he was tried.

Baker was transacting business with Johnston, out of which Johnston's frauds arose. He was a witness for Johnston upon his trial. These claims were not pressed while Johnston was imprisoned, and were reviewed and passed upon his liberation from prison. Baker had no books upon which to base the claims, and made them out from memoranda in possession of Johnston and used upon his trial. If these facts do not conclusively show that Baker was in complicity with Johnston, they tend to show it, and the fact that he presented a claim to the Government for payment which had already been paid and receipted for certainly goes far to justify the suspicions entertained by the Commissary-General and by him expressed in the opinion he gave upon the validity of this claim, an extract from which we have quoted.

In view of the facts stated in the case, the committee are of the opinion that the claimant ought not to have the relief she seeks on the merits of the case, as well as from the absence of any evidence of authority in her to act as the agent or attorney of the personal representative, or for the heirs at law of S. O. Baker.

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18TH CONGRESS, 2d Session. | SENATE. | REPORT No. 961.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 7, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill S. 578.]

*The Committee on Claims, to whom was referred the bill (S. 578) for the relief of Dennis W. Mullan, have examined the same and report as follows:*

That under obedience to an order of the Secretary of War, bearing date the 21st October, 1863, the said Dennis W. Mullan (then being an acting ensign in the United States Navy) took passage in the United States supply steamer Bermuda from Philadelphia, Pa., early in November, 1863, to join the United States steamer Monongahela, then attached to the West Gulf blockading squadron, commanded by Rear-Admiral Farragut; the said steamer Monongahela being at that time stationed off Matagorda, coast of Texas. That upon his arrival off Matagorda he received orders from Commander James H. Strong, U. S. Navy (now deceased), who was then in command of said steamer Monongahela, to join said steamer at once, and that in obedience to this order he quit the Bermuda and reported for duty on the Monongahela on November 28, 1863. It further appears from the testimony of naval officers who were present that at the time Ensign Mullan's baggage, consisting of a trunk and contents, was being transshipped from the United States supply steamer Bermuda to the Monongahela, "the weather was very inclement and boisterous, the wind blowing a gale and the sea rolling very high, and while said baggage was being hoisted on board said steamer Monongahela it was lost overboard." The trunk and contents were valued by the claimant at the sum of $764, and the purpose of the bill is to pay him the sum of $750 as indemnity for said loss. It does not appear that there was any negligence or want of proper care on the part of those engaged in handling and transferring the claimant's baggage from the Bermuda to the Monongahela; on the contrary, the loss appears to have been due alone to the state of the weather and sea, the usual and ordinary dangers of which are not guaranteed against by the Government. It would not be proper to hold the United States to the duty and responsibility of an insurer of the personal outfit of naval officers. Those who seek and accept such service in the Government must as a general rule assume the risk of such losses directly incident to their employment and the performance of their regular and proper duties. There is nothing in the present case which should make it an exception to the general principle, and your committee accordingly recommend that the bill be indefinitely postponed by the Senate.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 962.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 7, 1885.—Ordered to be printed.

Mr. PIKE, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill S. 1098.]

*The Committee on Claims, to whom was referred the bill (S. 1098) for the relief of V. B. Horton, having considered the same, beg leave to make the following report:*

The claimant was the owner of tow-boat steamer Gipsey No. 2, and during the latter part of the late civil war was using the same on the Ohio River in the vicinity of Cincinnati; that the United States Government had the use of the same for the transportation of soldiers and quartermaster's stores from January 14 to January 24, and from February 10 to April 7, 1865, a little more than fifty-five days, and paid him for the use of the same, at $160 per day, the sum of $10,633.33; that while it was in the use of the Government it became disabled on Harpeth's Shoals and had to be sent to Cairo for repairs; that the said boat was under repairs from January 24 to February 10, 1865, seventeen days.

| | |
|---|---|
| The claimant's claim is for money paid for materials and labor for making said repairs, the sum of | $1,837 61 |
| For seventeen days' use of said boat while under repairs, at $160 per day | 2,720 00 |
| Making a total of | 4,557 61 |

This claim of $4,557.61 has been presented to the Quartermaster-General, and payment requested, who, after an examination of the same, rejected it on the 26th of May, 1873, and the same has since been disallowed by the Third Auditor, and the decision of the Third Auditor has been affirmed by the Second Comptroller. The Comptroller's decision was made on the 10th of April, 1874.

The claim has also been unfavorably reported upon by the Senate Committee on Claims in the Forty-sixth Congress at the third session; the report of that committee is No. 727.

The claimant presented his claim to the Quartermaster-General and the Third Auditor upon the ground that the boat was under charter, and it was rejected by those officers upon the ground that the evidence filed before them did not attach blame to any Government officer for the damage, but showed that the disaster was one incident to river navigation, for which damage the Government would not be liable where the boat was under charter to it.

The claimant insisted before the committee of the Forty-sixth Congress that the boat was not under charter while in the employ of the Government, but under impressment, and consequently that the Gov-

ernment ought to pay for the costs of the repairs and for detention while the repairs were being made.

That committee state that they were satisfied that the boat was under charter, and report unfavorably upon the same ground that the Quartermaster-General had done.

It seems to be settled that where the service is that of an ordinary affreightment, an accident not occasioned by an unusual or extraordinary peril, but one incident to river navigation, the affreightors would not be liable for the damage. (Reed *v.* The United States, 11 Wallace, 596.)

The rule is, as your committee understand, that if this boat was used under impressment, the Government would be liable, if damage happened to her while so used, for costs of repairs and for detention while repairs were being made.

The real question, then, to be settled is whether this boat was used and damaged under charter or under impressment.

It will be seen by the above statement that the Government used this vessel both before and after the time it was damaged and under repairs. The claimant paid for the repairs.

The claimant, in his presentation of his claim to the Quartermaster-General and the officers of the Treasury, represented that the boat was under charter; but he now claims that that was a mistake, and he has furnished the testimony of the captain, the pilot, the head engineer, and the second engineer, all of whom were in the service of the claimant and in command and management of said boat on the 12th of January, 1865. These witnesses state that on that day, and while the boat was at Cincinnati with a tow of barges, that Capt. J. V. Lewis, acting assistant quartermaster, sent an officer of his department on board, and they relate a conversation between this officer and the captain which tends to show that their understanding was that the boat was impressed or was to be impressed; that the captain told this officer he had no authority to charter the boat, and that it was impossible for him at that time to be away from home, and that it would be impossible to use the boat without great danger without first cleaning the boilers, and it was arranged that there was to be delay till this was done.

What was done afterwards, or whether any arrangement was made about the boat after that, or whether this officer or any other officer of the Government saw the claimant before the boat went into the Government service, or any agent of his, these witnesses have no knowledge.

Whether as a fact there was or was not a charter party between this claimant and the Government rests entirely upon the statement of the claimant, and your committee are not inclined to disturb the finding of the Quartermaster's Department of the Government, or of the committee of the Senate as stated in their report to the Forty-sixth Congress, that this boat was used under a charter party, and not by impressment.

They are led to this conclusion from several considerations: (1.) It seems that the first claim against the Government was presented for the use only of the boat previous to the time of its repairs and for the time after repairs, and did not include the claim now made for the expense of repairs and for the use of the boat for the time it was under repair, and that this was paid by the Government.

The committee are unable to see why, if the claimant then understood that the Government was liable for the claim now made, that it was not then presented. No explanation whatever is made why it was not.

(2.) This second claim, as originally presented to the Quartermaster's Department, after the other had been allowed and paid, was upon the

ground that there was a charter party for the use of the boat. The claimant now urges that that was a mistake committed by the counsel he had employed to draft and execute his papers; that he remonstrated at the time and claimed that the boat was impressed and not chartered. But the only evidence upon this point is that of the claimant. The testimony of the person drafting these papers and the claimant's adviser in this matter, who certainly has knowledge on the subject, has not been taken, and no explanation has been given why it has not.

(3.) J. V. Lewis, the quartermaster, and his officer appear to have knowledge in what way the use of the boat was obtained. Their evidence has not been taken, and no explanation has been offered why it has not been. All the evidence of the claimant is *ex parte.*

(4.) Your committee during the last session of this Congress requested by letter this claimant to procure the testimony of the person making and executing his papers above stated, and of the United States officers through whom the use of this boat was obtained, but none has been furnished, neither have the committee had any reply from the claimant.

The committee recommend that the bill do not pass.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 963.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 7, 1885.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill S. 2050.]

*The Committee on Claims, to whom was referred the bill (S. 2050) for the relief of Mrs. Eliza Clark, have considered the same, and submit the following report thereon:*

The claimant, Mrs. Eliza Clark, is the widow of William B. Clark, who, during the war of the rebellion, was a resident of the State of Tennessee.

The claim is for $250, the same being the alleged value of a horse, bridle, saddle, and saddle-bags, claimed to have been taken from said William Clark, in the State of Tennessee, during the war by the military authorities of the United States, and converted to the use of the United States.

Clark made a claim to the Quartermaster-General as for quartermaster's stores. The claim was examined and rejected by the Quartermaster-General on the ground of the disloyalty of claimant. No additional evidence upon this point is presented except the unverified petition of the present claimant.

It seems from the evidence that Mr. Clark resided near Gallatin during the war. That after the United States military authorities had taken possession of that portion of Tennessee, Mr. Clark was known and recognized as a rebel symphathizer and was threatened with arrest. He thereupon fled from his home and took refuge within the rebel military lines. He remained within the rebel lines for some time, but finally returned to Gallatin voluntarily and took the oath of allegiance. The evidence tends to show that immediately after he had taken the oath of allegiance, but before his protection papers were made out, he was arrested, his horse, bridle, saddle, and saddle-bags seized by the provost-marshal of Gallatin. The property was kept and used by the military authorities. The present claimant insists that because Mr. Clark had taken the oath of allegiance before the property was seized, she is entitled to relief as though he, at all times, had been a loyal man.

The committee do not concur in this view, but agree with the Quartermaster-General, that it ought to be rejected on the ground of the disloyalty of Mr. Clark, the original claimant.

We, therefore, recommend that the claim be disallowed and the bill indefinitely postponed.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 964.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 7, 1885.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill S. 640.]

*The Committee on Claims, to whom was referred the bill (S. 640) for the relief of Rebecca Johnston, have considered the same, and submit the following report:*

Henry H. Johnston, the husband of the claimant, was, during the year 1864, the proprietor of a livery stable at Greenville, Muhlenburg County, Kentucky, and was at that time the owner of a number of horses and mules.

In 1864 a detachment of the Thirty-fifth Kentucky Mounted Infantry came to Greenville and took possession of Johnston's stables, and occupied them at intervals for some time. Claimant alleges in her petition that the Government horses, or some of them, had the glanders, and that the disease was communicated to her husband's horses and mules, and they all died of the disease.

The evidence in support of this claim is not satisfactory, but if it were entirely conclusive your committee would not recommend that the Government be held liable for the loss. It is true Kentucky was an adhering State, but actual war existed within her borders, and in that part of the State where Mr. Johnston resided. The loss Mr. Johnston sustained by reason of the death of his horses and mules was an incident of war, for which the Government is not liable.

The claim for forage alleged to have been taken from Johnston by detachments of United States troops is not satisfactorily proven. If any forage were taken a claim might have been made for it to the Quartermaster's Department of the Army. No claim was made for it until the presentation of this petition, on the 12th of December, 1883.

We recommend that no part of the claim be allowed, and that the bill be indefinitely postponed.

O

8TH CONGRESS, 2d Session. } SENATE. { REPORT No. 965.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 7, 1885.—Ordered to be printed.

Ir. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill S. 1392.]

*he Committee on Claims, to whom was referred the bill (S. 1392) to compensate John W. Smith for losses sustained by him during the war of the rebellion, have examined the same, and report thereon as follows:*

The claim is for the destruction of twenty-five acres of corn situate Coles County, Illinois.

The claimant alleges that he was the owner of the corn, and that it is destroyed by soldiers in the military service of the United States. seems the corn was wantonly destroyed by soldiers. A nation is t liable for property wantonly destroyed by its soldiers.

We recommend that the claim be not allowed, and that the bill be lefinitely postponed.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 966.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 7, 1885.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill S. 721.]

*The Committee on Claims, to whom was referred the bill (S. 721) entitled "A bill for the relief of Joseph W. Yates," have considered the same, and submit the following report:*

The bill appropriates $21,000 to compensate the claimant for the loss of the ship Joseph Nickerson, captured and destroyed by pirates on the west coast of Africa, on the 18th day of December, 1876.

The claimant alleges in his petition that the ship ran aground near the mouth of the Congo River, on the west coast of Africa, December 20, 1876, and that soon after grounding some twenty canoes put off from shore to the ship, with about four hundred natives on board, who offered friendly assistance, which was accepted by the captain of the vessel; that as soon as the natives got on board the ship they took forcible possession of her, and wrecked the vessel completely, taking out and appropriating provisions, cargo, sails, rigging, and, in fact, everything valuable in, on, and about the ship, and then setting fire to her and burning her to the water's edge. The United States did not at that time have any treaty with the nations or tribes occupying that portion of the west coast of Africa. The persons who destroyed the ship were simply pirates, and our Government had no treaty with the tribes to whom they belonged. The owners of the vessel went there with their vessel on their own private business and at their own risk.

Your committee know of no principle of morals or of national law under which the Government ought equitably to be held liable for the loss.

We therefore recommend that the claim be not allowed, and that the bill be indefinitely postponed.

O

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 967.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 7, 1885.—Ordered to be printed.

Mr. SHEFFIELD, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill S. 1163.]

*In the matter of the claim of Anson Atwood, for $300,000, against the United States.*

Accepting the opinion of the Judiciary Committee of the Senate, as embraced in their report made to the Senate at the first session of the present Congress, as the law which ought, upon the written evidence before the Judiciary Committee, to preclude the claimant from recovering any part of his claim from the United States depending upon the evidence then in the case, which report of said committee the Committee on Claims adopt as a part of their report, the Committee on Claims then examined the new and additional evidence adduced by him, and brief of the claimant.

The claimant bases his claim upon an advertised proposal of the Commissioner of Internal Revenue for designs for internal revenue stamps, or plans for their cancellation, with the terms upon which these plans, designs, and stamps are offered to the Government, in writing, which proposal was published under date of December, 24, 1867; the designs, &c., to be presented before February 1, 1868.

The claim of Atwood is that he, in pursuance of this proposal, presented to the Commissioner of Internal Revenue a design which consisted in the impression of a stamp printed upon a tin-foil wrapper, so that the opening of the package necessarily destroyed the stamp, for which he claims from the United States $300,000.

The House of Representatives on November 30, 1867, instructed the Committee on Ways and Means to prepare a law "to place revenue stamps on the boxes or packages" of tobacco.

The idea of putting up tobacco in small stamped packages was adopted into the law as the result of an agreement of a convention of tobacconists held in Washington on the 29th and 30th of January, 1868.

The Committee on Claims are of the opinion that this ground of claim of Atwood is not sustained by the evidence. It stands upon the claimant's unsupported declarations, and is denied, so far as the Commissioner of Internal Revenue could deny the same, he placing his denial upon the course of business in his office, and from the fact that there was no communication from Atwood to be found upon the files of papers in the office up to the beginning of 1869.

The records in the office of the Commissioner of Internal Revenue show that the Commissioner secured from Henry Skidmore, of New

York, on September 19, 1868, specimens of stamps for one-half and one ounce tin-foil packages of chewing tobacco, with a proposal to print stamps on foil, according to the specimens, and furnish dies at his own expense, and print and deliver the stamps to a Government officer at 14 cents per 1,000 stamps. This proposal was accepted by the Commissioner of Internal Revenue on the 29th of the same September.

Upon the death of Mr. Skidmore, in 1873, the above contract was renewed with his widow and son, under the firm name of Skidmore & Co., and it is for use of stamps under the Skidmore contract for which Atwood claims compensation.

Henry Skidmore, the orignal contractor, and those persons who have succeeded to his rights, and who have been the subsequent contractors to furnish these stamps, claimed to hold a patent for an invention for printing on tin foil.

It may be further remarked, in reference to the claim of Atwood, that the opening of the package did not necessarily destroy the stamp on the foil, but that the destruction of the stamp depended upon the location or manner of placing the imprint upon the foil.

There was a patent issued for an apparatus for printing on tin foil November 11, 1867, to John Polhemus, which was by him then assigned to C. H. Lilienthal.

It is quite probable that Skidmore and his successors used this patented contrivance in executing his contract with the United States, for the case discloses that Henry Skidmore was involved in a litigation in the city of New York in which the title to a patented contrivance for printing on tin foil was involved, and the patent issued to Polhemus, and by him assigned to Lilienthal, is the only patent which has been issued for printing on tin foil which is referred to in the index of patents for a contrivance.

The design is a bust from some copy of Stuart's Washington. Across the top of the design, above the bust, are the words "United States Internal Revenue." On one side of the figure are the words "one ounce," on the other side "two cents." This design is without novelty. It or its equivalent would suggest itself to any one desiring to obtain a design for a stamp. Its close analogy to the Post-Office stamps and to other internal revenue stamps then in use, and to the many proprietary articles publicly offered for sale, would naturally and almost of course suggest the design adopted by Skidmore.

The late Secretary of the Treasury Folger, and the Commissioners of Internal Revenue Pratt and Raum, believe the claim is without merit, and your committee concur with them in this opinion. They therefore report the claim adversely.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 968.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 7, 1885.—Ordered to be printed.

Mr. SHEFFIELD, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill S. 1901.]

*In the matter of the claim of William H. Whiting.*

## FACTS.

Mr. Whiting alleges in effect that in November, A. D. 1862, he was a seaman on board of the ship Levi Starbuck, of the port of New Bedford, in Massachusetts, then engaged in a whaling voyage in the South Atlantic Ocean; that off the coast of South America, while bound southward, the said ship was arrested and captured by the rebel cruiser Alabama; that the claimant was taken prisoner and put on board of the said cruiser, where he was put in irons and placed in "the hold" of said vessel, where he was detained during the period of sixteen days, and was kept in irons during the said term. At the expiration of the said sixteen days he was landed at Martinique.

The claimant further alleges that "the hold" of the Alabama, in which he was confined, was cold, dark, damp, and infested with vermin; that the steam which escaped from the water-condenser made respiration difficult and was almost suffocating; that "the hold" of the vessel was lined with iron, and inasmuch as they were allowed no bed-clothing, they were compelled to sleep and remain upon the iron floor. The claimant further represents that while he was on board of the Alabama he was struck on the back with a sword by one of her officers, whereby he was greatly injured, and for a long time he was unable to move, and suffered greatly therefrom, and was attacked by a partial paralysis of the legs, from which he has not yet recovered, and for three years he was not able to feed or dress himself; that he has expended $5,000 in endeavoring to regain his health. For all of which injuries he claims compensation from the United States, on the ground that the Government did not protect him from these injuries.

## OPINION.

This is a case of very great hardship, and appeals strongly to the sympathies of every person who may become cognizant of its facts.

Yet Congress cannot undertake to indemnify persons not in the public service who have been injured by the late war, or to admit the principle which would require the Government to make good in damages every injury resulting to an individual from lawless violence.

It occurred to the committee that the Alabama Claims Commission might have given special cognizance to this case, but the fund to be administered by that commission appears to have been already disposed of; and, were it otherwise, to give such cognizance would be at variance with the policy of Congress, and as a precedent would give Congress great vexation and trouble, without conferring any corresponding benefit upon the persons who make claims upon the Government. They therefore report adversely upon the claim.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 969.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 8, 1885.—Ordered to be printed.

Mr. MAXEY, from the Committee of Military Affairs, submitted the following

## REPORT:

[To accompany bill S. 1374.]

*The Committee on Military Affairs, to which was submitted the bill (S. 1374) to provide for the sale of the old site of Fort Brady, Michigan, and for a new site, and the construction of suitable buildings thereon, respectfully submits the following report:*

The Secretary of War having been called on by the committee through its chairman, for such information and suggestions as would aid the committee, replies, under date April 28, 1884, as follows:

WAR DEPARTMENT,
*Washington City, April 28, 1884.*

SIR: The Department duly received the letter from the clerk of the Senate Committee on Military Affairs of February 2 last, inclosing, by your direction, S. 1374, "A bill to provide for the sale of the old site of Fort Brady, Michigan, and for a new site, and the construction of suitable buildings thereon," and requesting the opinion of this Department as to whether said bill should or should not be enacted into a law.

The subject having been referred to the proper military authorities, was fully reported upon, and a draft of a bill modifying the one above mentioned, in accordance with the views and recommendations submitted in said reports, is herewith inclosed. The essential changes embraced in the draft referred to, as will be observed, are the exception, in terms, from the proposed sale of all that portion of the reservation lying north of Water street extended, the provision for a *four*-company instead of a *two*-company post, and the insertion of the sum of $120,000 as the amount to be appropriated for the purposes of the act.

I inclose, also, a copy of the letter of the Lieutenant-General of the Army submitting the accompanying draft of bill to this Department, in which is embodied a brief of the reports of the military authorities, upon which the proposed modifications of the original bill, as shown in the said draft, are based, and which, it is believed, are of such character as to commend the proposed modifications to the favorable consideration of your committee.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
*Secretary of War.*

Hon. JOHN A. LOGAN,
*Chairman of the Committee on Military Affairs,*
*United States Senate.*

Under date June 25, 1884, the Secretary of War furnished a map of the reservation and surroundings, which may be found in the papers. The communication of the Secretary of War of April 28, 1884, is accompanied by a letter addressed to him April 21, 1884, by Lieutenant-General Philip H. Sheridan, which explains fully why the site of the fort should be changed and the reasons for building a four-company

post. The communication of the Lieutenant-General is inserted as an important part of this report, and is as follows:

HEADQUARTERS ARMY OF THE UNITED STATES,
*Washington, D. C., April* 21, 1884.

SIR: In compliance with instructions contained in your indorsement of the 16th instant, on communication from the clerk of the Committee on Military Affairs, United States Senate, dated Washington, D. C., February 11, 1884, referring, under instructions of Senator Logan, for the opinion of the Secretary of War, Senate bill No. 1374, "to provide for the sale of the old site of Fort Brady, Michigan, and for a new site, and the construction of suitable buildings thereon," I have the honor to inclose herewith new draft of a bill, which is a modification of Senate bill 1374, Forty-eighth Congress, first session, above referred to, and submit the following brief relative to the military reservation of Fort Brady, Michigan, compiled from the records of the Adjutant-General's Office.

Senate bill 1374 (Forty-eighth Congress, first session) provides that the Secretary of War be authorized to sell the military reservation known as Fort Brady, in the village of Sault Sainte Marie, Mich. (except such part as may be necessary for Canal purposes), and to purchase suitable grounds in or near the said village and construct thereon buildings, &c , sufficient for a two-company post, to be known as Fort Brady, appropriating therefor a sum of money not exceeding ——— dollars.

February 11, 1884, the Senate Military Committee refers copy of this bill for the opinion of the Secretary of War "as to whether it should or should not be enacted into a law."

February 13, 1884, the Secretary of War directs reference of same to General Hancock for his views, and for a rough estimate to fill in the blank, as to the expense of the new post.

March 11, 1884, General Hancock returns same, recommending that the papers be referred to the Engineer Department, adding:

"General W. T. Sherman, U. S. A., in a letter dated July 12, 1879, recommended that Fort Brady be made a four-company post, and that the necessary buildings to make it so be constructed of brick and stone. Before abandoning the present site of the post, it should, I think, be definitely determined as to whether a proper site for a new post can be purchased, of what extent, and whether at a reasonable price. I would recommend that the new post be built for a garrison of four companies. The military cemetery should not be conveyed, and the Government dock and warehouses, together with the plat of ground in connection with it, referred to by Capt. Thomas Ward, First Artillery, assistant adjutant-general, and marked on the inclosed map "Reserve," should be retained. With these qualifications I see no objection to the sale of the present reservation and the removal of the post to a new site."

Captain Ward's report, referred to by General Hancock, is dated March 3, 1884, and is as follows:

"In making a personal examination of the location and surroundings of Fort Brady in May last, particularly with reference to target practice, the necessity for a change of site became apparent to me.

"The point is of great strategic value, and one that should be held by the United States, and garrisoned so long as our northern boundary remains as now.

"The progress in settlement, together with the construction of railroads, especially the advent of one from the Canadian side, now in course of construction with bridge to cross the Saint Mary's Rapids, near the great United States ship-canal lock at this point, renders a change in the location of the post to more commanding ground, southwest of the old site and half a mile from it, most necessary.

"In conversation with some of the most prominent citizens of the village of Sault Ste. Marie, I learned that a piece of land in the neighborhood I have reference to, for new site of post, containing about 40 acres, was purchased for $1,150 some years ago and about two years since sold again for $3,000, and that the estimated value of the old reservation, with buildings, &c., was about $100,000.

"In disposing of the old military reservation, however, I would urgently recommend the retention of the Government dock and warehouse, together with the plat of ground in connection lying north of Water street extended, and west of Church street extended; and I believe that the new post should be constructed of brick or stone, and made of the capacity for four companies."

The chief quartermaster of the department approves the recommendation of Captain Ward as to the site for the new post, and thinks that a sum not less than $120,000 should be stated in the bill as a proper sum to be appropriated for the purposes of the act. General Perry, chief quartermaster, and Inspector-General Jones agree to the desirability of removing the garrison from its present location near t

village, where the reservation obstructs the traffic and communication

ıce with the suggestion of General Hancock, the papers have been re-
:hief Engineer, who returns them March 31, 1884, with report of Lieut. Col.
rps of Engineers, concurring in his views and recommendations, but as
report relates altogether to another matter than the essential features
l 1374, it is not cited in this connection.
e return of the foregoing from General Hancock, a communication was
ı Hon. Ed. Breitung, M. C., dated February 19, 1884, who, in connection
ıre mentioned Senate bill 1374, and referring to the implied power given
of War therein, called attention to a certain parcel of land, marked on
g map, which in his opinion should be reserved and made a part of
and asked whether in the event of the bill becoming a law, the tract in
ld be regarded as necessary for canal purposes.
5, 1884, Secretary of War directs reference of this paper to the command-
Division of the Atlantic, for report.
1884, General Hancock returns same with report of commanding officer
y, giving the desired information except as to the necessity for the re-
ı piece of ground referred to for canal purposes.
is briefly as follows:
ıf ground referred to by Mr. Breitung is at the northeast corner of the
ınd in front of "claim 97," being between that claim and the river front.
ıf said claim No. 97, as far as can be ascertained, is, viz:
:st owned about 1796 by a Mr. Champlan; from 1803 to 1823 by one Jean
ıois; then by one John Drew, whose title was confirmed by a commission;
John Hart, who sold the same to the Right Reverend Bishop Rese, of
e time in 1835 (copy of deed of this purchase herewith). This lot was
the Catholic Church, under the title of "Lot No. 97," by an act of Con-
ved September 26, 1850, and a patent ordered to be issued to all of it (ex-
ion referred to by Mr. Breitung, which was excepted for the reason that
military reservation, and some of the public buildings of the post were
the same), upon the payment of $70.
pers were referred to the Chief of Engineers, and have been received back,
of the indorsement before referred to, which returned the papers received
ate Military Committee, inviting attention to the report of Lieutenant-
which relates wholly to this matter."
e's report is as follows:
sement of the Secretary of War, dated December 31, 1883, upon an appli-
canal authorities for transfer to the canal reservation of that portion of
reservation situated north of the north line of Water street extended,
was ordered and has been completed. This application for transfer was
ıll consideration of the necessities of the canal, present and prospective,
has been developed to change my views in regard to it.
ely, the printed bill recognizes these necessities, but, in my opinion, would
by definitely setting apart for canal purposes the entire portion already
he order of the Secretary of War.
ı urged that the canal does not need so much water front, but the experi-
ıast season, when vessels were sometimes crowded into the very jaws of
ıiting their turn to pass through, a condition of affairs which will grow
ach coming year, shows that timely provision must be made, and my
subject are very decided.
ernment should hold on to the water front of the military reservation, and
take steps to acquire the 500 feet or more of water front now belonging
ners between the former canal property and that recently transferred
litary reservation, which is held at about $75,000. This price, though
ome indications of what the water front transferred from the military
s really worth, and how tempting it is to any one who would like to get
it.
eport published in a Sault Ste. Marie newspaper, just received, of remarks
C. S. Barker, it is learned that a strenuous attempt will be made to
rtion of the canal reservation vacated, upon the ground that it is neces-
r to obtain an outlet for the drainage of the village. This should have
ıecause the drainage can be effected at any point of that water front just
le owned by the United States as if it were in the hands of private
perhaps better.
no good reason for the transfer of the water front of Claim No. 97 to the
at claim. They now have all that was confirmed to them. The water
ınly be of service by being sold because of the price it would bring, and
s of the claim have any equity in the matter it would be better for the

Government to retain the reservation and pay the owners of the claim a reasonable sum of money in lieu of it; but I do not recommend this course until the claim is fairly established. In short, I recommend that none of that portion of the former military reservation recently transferred to the canal reservation be sold."

Very respectfully, your obedient servant,

P. H. SHERIDAN,
*Lieutenant-General.*

The Hon SECRETARY OF WAR,
*Washington, D. C.*

It will be observed that both the Secretary of War and General Sheridan recommend a modification of S. 1374, as shown by draft accompanying the papers transmitted by the Secretary of War. An examination satisfies the committee that these modifications should be made. Wherefore the committee reports back S. 1374, and asks to be discharged from its further consideration, and the committee reports a bill which is herewith submitted, and the passage of which is respectfully recommended.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 970.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 9, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 6328.]

*The Committee on Pensions, to whom was referred the bill (H. R. 6328) granting a pension to Samuel W. Bowling, have examined the same, and report as follows:*

That said Samuel Bowling enlisted July 27, 1863, as a private in Company D, Eleventh Regiment Kansas Cavalry, and was discharged August 31, 1864. In April, 1883, he filed his application for invalid pension, alleging as the basis of his claim that while in the service and on the Lawrence raid, in the State of Kansas, "on the — day of August, 1863, he was diseased by an ulcer (chronic) setting in on the left leg, lower third of tibia, at the point on said leg where there was an old cured-up gunshot wound. Said chronic ulcer was caused by and contracted in said service." In a subsequent affidavit the claimant states that the ulcer was caused by a sore made by the stirrup-strap and fender.

It appears from the evidence that prior to enlistment the soldier received a gunshot wound in the left leg, the ball entering the leg above the knee and coming out at the calf of the leg near the ulcer complained of. This ulcer was preceded by considerable swelling of the limb, and developed itself in less than a month after his enlistment. The claimant was thoroughly examined by a competent medical board at Washington, D. C., on the 22d March, 1884, which reported upon his case as follows:

This man was shot before he enlisted; the ball entered under aspect of thigh, passed outwards and backwards, and made exit through the calf of leg. The calf is now greatly enlarged, being four inches larger than its fellow. The superficial veins are venous, and he now suffers from ulceration on the lower third of the leg; claims that the ulceration is due to injury of the leg by the stirrup-strap while in the service. The cause assigned is not adequate, *but the gunshot wound is. In our opinion all the trouble is due to the gunshot wound which he received before enlistment.* He is a strong and robust man. The wound and ulceration affects the left leg. The hypertrophy of the calf is, we believe, due to the gunshot wound and the ulceration to the hypertrophy and varicose veins. We find the disability as above described to entitle him to no rating.

The claim was accordingly rejected by the Pension Office. In this action your committee can see no error. The claimant applies to Congress for relief upon the same state of facts, the only additional paper in the case being a communication from T. B. Hood, M. D., medical

referee of the Pension Office, under date of May 19, 1884, addressed to Hon. C. H. Morgan, of the House, in which Dr. Hood says:

Touching the claim of S. W. Bowling, Company D, Eleventh Kansas Volunteers, of which you requested me to officially certify, I have the honor to state that the evidence is that he incurred a gunshot wound of the left leg prior to enlistment, in consequence of which the calf of that leg is now considerably enlarged and the leg the subject of ulceration, due to venous congestion. Those conditions disable the claimant quite seriously, certainly entitling him now to a "total" rating.

The House report upon the claim seems to attach importance to this statement of the medical referee, but, upon examination, it will be seen that it is not at all in conflict with the report of the four medical examiners above referred to, that the existing disability of claimant resulted from the gunshot wound. Dr. Hood distinctly states that the enlargement of the leg and the ulceration were the result of the gunshot wound. His opinion accords with that of the board of examiners. This expert testimony clearly warranted the action of the Pension Office in the rejection of the claim. The character of the disability is such that your committee do not feel justified in disregarding such evidence, which establishes the fact that claimant's injury was not due to the service, but to the previously received gunshot wound.

The committee accordingly report back the bill, with the recommendation that it be indefinitely postponed by the Senate.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 971.

IN THE SENATE OF THE UNITED STATES.

JANUARY 9, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 4708.]

*The Committee on Pensions, to whom was referred the bill (H. R. 4708) granting a pension to Moses Fullington, having examined the same, respectfully report:*

That in May, 1878, the said Moses Fullington filed his application for pension in the Pension Office, alleging that he served as a substitute for his father, Ephraim Fullington, in Capt. David Chadwick's company, Colonel Dixon's regiment, Vermont Militia, in the war of 1812; that he entered the service about the 15th September, 1813, and was *verbally* discharged about the 5th October, 1813. After investigation the claim was rejected by the Commissioner of Pensions, for the reason that there was no record of any such military organization as that in which it is alleged he had served, and because there was no evidence of his service, as shown by the record of the Departments.

On behalf of the claimant, and in explanation of this lack of record-evidence, it was alleged that Captain Chadwick's company, after reaching Cumberland Head, was merged with that of Capt. Thomas Waterman. But this did not relieve the difficulty, as it appeared from the report of the Third Auditor of the Treasury Department that neither the name of Moses nor of Ephraim Fullington was borne on the rolls of Capt. Thomas Waterman's company. No certificate of honorable discharge was produced, nor was there any other satisfactory proof of service performed and of an honorable discharge.

The claimant's application for bounty-land warrant was also rejected. He subsequently applied to Congress for relief, and the House of Representatives, in March, 1884, passed the bill under consideration for his relief. The House report rests the claim, first, upon the testimony of Dexter Whitney and Samuel B. Waters, who state in April, 1878, that they had known Moses Fullington forty-four and sixty-two years, respectively, and believe he was in the war of 1812 "from the following facts and circumstances, viz, having understood of late from 'common report' that he was in the service during the war of 1812"; second, the testimony of Mrs. Nancy Brush, a sister of the claimant, who remembers the circumstances of her brother going off with his accouterments, and of Mrs. Rosamond Carleton, a daughter of Captain Chadwick, who remembers that Moses Fullington returned with her father after an absence of something like two or three weeks. This is not sufficient proof of fourteen days' service to warrant your committee in reviewing and reversing the action of the Department after a full and fair investigation of the claim.

But it appears from the papers before your committee that said Moses Fullington died on the 5th day of December, 1883, three months before the passage of the bill by the House for his relief, and that his widow, Hannah Maria Fullington, in January, 1884, filed her application in the Pension Office claiming pension as such widow for the alleged service of her husband in the war of 1812. This claim was pending till July 24, 1884, when the same was rejected by the Commissioner. Nancy Brush and Mrs. Rosamond Carleton both testify that Moses Fullington went as a "*waiter*" to Captain Chadwick. Mrs. Carleton says "her father, Captain Chadwick, took Moses Fullington with him as his *waiter*." This is confirmed by all the facts and circumstances disclosed by the testimony in the case. So the Department rejected the widow's claim on the ground of no record or other satisfactory evidence of the alleged service of the soldier during the war of 1812, and because the only parol evidence of service disclosed the fact that he merely acted in the capacity of "waiter" to Captain Chadwick, for which service he was not pensionable under the law.

Your committee think the widow's application was properly rejected, that the case presents no valid grounds for relief, and they accordingly recommend that the bill be indefinitely postponed by the Senate.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 972.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 9, 1885.—Ordered to be printed.

Mr. DOLPH, from the Committee on Public Lands, submitted the following

## REPORT:

[To accompany bill S. 2483.]

The Committee on Public Lands, to whom was referred the bill (S. 2483) entitled "A bill to amend section 2347 of the Revised Statutes, relating to the entry of coal lands," have carefully examined the same, and report it back to the Senate with the recommendation that it do pass.

The only change in the existing law proposed by the bill is to reduce the price of coal lands from $10 to $5 per acre where the same are situated more than 15 miles from any completed railroad, and from $20 to $10 per acre where the same are situated within 15 miles of such completed road.

Under the present law coal land is sold for $10 minimum and $20 maximum per acre, while the most valuable of mineral lands of all other classes are sold at $5 per acre.

So far as your committee can ascertain, there is no good reason for the difference in price which now exists between coal lands and other mineral lands. Coal is a necessary article of general and every-day use, and the interest of the consumers of coal, who constitute a very large proportion of our entire population, demands that the laws for the disposal of coal lands by the Government should be so framed as to induce the sale of the lands and the opening and development of the mines. At present prices the land cannot be purchased by any but capitalists.

In the opinion of your committee, should the price be reduced as provided in this bill, the sale of coal lands would be largely increased, the opening and development of coal mines greatly stimulated, and the receipts of the Government from the sale of this class of lands instead of being diminished would be considerably increased.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 973.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 9, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 2231.]

*The Committee on Pensions, to whom was referred the bill (S. 2231) granting a pension to Kate A. Drummond, has examined the same, and report as follows:*

That Thomas Drummond was captain of Company F, Fifth United States Cavalry; that he died on the 2d day of April, 1865, of wounds received at the battle of Five Forks, Va., on the first day of said month; that the said Kate A. Drummond is his widow; that she applied for a pension as such widow on the 14th day of June, 1865; that the same was granted to her, and she continued to receive the same until the 19th of March, 1874, when she remarried, and the pension ceased as to her; that the same was subsequently allowed to the minor children jointly at $20 per month from the date of said remarriage; that the said children have all attained their majority and said pension has ceased; that the remarriage of the said Mrs. Drummond proved to be an unfortunate one, and she was compelled to apply for a divorce from her second husband, which was granted to her by decree which also authorized her to assume the name of Kate A. Drummond; that she is a worthy and deserving woman, having the respect and confidence of the people of the city in which she resides, a number of whom join in a petition to Congress praying for the passage of an act granting to her a pension, and your committee concur in the opinion that the prayer of the petitioner should be granted.

The bill is therefore reported with a recommendation in favor of its passage.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 974.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 9, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 1256.]

The Committee on Pensions, to which was referred the bill (H. R. 1256) granting an increase of pension to Ben. Morgan, has examined the same, and reports that this case was examined by the Committee on Invalid Pensions of the House of Representatives, and was reported to that body, accompanied by the following report:

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1256) increasing the pension of Ben. Morgan, have had the same under consideration, and beg leave to submit the following report:*

The records of the War Department show that claimant was mustered in as lieutenant-colonel of the Seventy-fifth Ohio Volunteers June 18, 1863, and was mustered out March 15, 1865. On the 1st of July, 1863, while engaged in battle, at Gettysburg, he was severely wounded by a musket-ball through the left lung. The ball entered near the apex of the left scapula and passed out midway between the axilla and left nipple. For this wound Colonel Morgan was pensioned at $30 per month, for total disability, by certificate issued March 20, 1869. In addition to the serious disability from the wound, Colonel Morgan is suffering from almost total deafness of both ears, caused by exposure in Confederate prison from August 17, 1864, to March, 1865, having been captured at Gainesville, Fla., on the former date. The first examination by a surgeon, in 1869, showed that the hearing of the left ear had then been destroyed. Medical examination in 1873 shows that the other ear became affected, and that at times he loses the use of his voice.

The board of examining surgeons at Dayton, Ohio, under date of February 13, 1884, certify that Colonel Morgan is very deaf in both ears, cannot hear ordinary sounds, or even very loud conversation, except when spoken loudly to in the ear. He carries with him and constantly uses an ear-trumpet, which somewhat aids him in hearing. Neuralgia and rheumatism, undoubtedly caused by the wound of shoulder and chest, add greatly to his disabilities, and not only is he entirely incapacitated for business, but, according to the evidence filed in support of his claim for increase, requires much aid of another person, in particular outside of his house.

The claim for increase has been rejected by the Pension Office because it is not shown that the combined disabilities have resulted in such total helplessness as to entitle him under the general law to the next higher rate to that now paid him for the wound alone.

The degree of deafness shown in this case, were it the only disability to consider, would entitle Colonel Morgan to a rate of total in rank, or $30 per month, but as the law does not permit of compounding disabilities of high grades, except the same have reached such a degree of helplessness as to require the constant aid and attendance of another person, the relief asked for can only be obtained by special legislation.

The claimant, now well advanced in years, was a gallant officer, and in line of duty received injuries which, as shown, have robbed him of the ability to procure subsistence through efforts on his part.

The committee are therefore of opinion that his pension should be increased, and recommend the passage of the accompanying bill, amended, however, by striking out the words "seventy-two" in line 6, and insert instead the words "forty-five."

This report does not state the case as strongly in one particular as the evidence presented would warrant. Dr. William B. McAvoy, of Franklin, Warren County, Ohio, testifies that from personal knowledge Colonel Morgan's condition is such that "safety requires him to have friends near or about him," * * * and that he "requires the daily personal aid of another"; and it seems to your committee that, while his case is not of the extreme character which requires the constant help of an attendant, and which would give him the $72 per month rate, he is so near to that condition that the rate provided in the bill herewith reported is not more than should be granted.

The committee, therefore, reports the bill to the Senate, and recommends its passage.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 975.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 9, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5336.]

*The Committee on Pensions, to which was referred the bill (H. R. 5336) granting a pension to Maria C. McPherson, has examined the same, and reports:*

That Mrs. McPherson is the widow of Daniel McPherson, who enlisted in Company C, Twenty-fourth Michigan Infantry, August 9th, 1863, and died April 16, 1880. The widow applied for a pension in July, 1881, alleging that her husband died from the effects of a gunshot wound received while in the service of the United States. The Commissioner of Pensions, in his letter transmitting the papers in the case to the committee, says:

> The claim awaits evidence to establish the date and cause of death, and origin of fatal disease, called for in a communication addressed to applicant's attorneys on October 3, 1883.

The evidence before the committee, consisting of the record of the case as it appears in the files of the Pension Office, and several papers purporting to be affidavits of various parties residing in the community of which she is a resident, does not, in the judgment of the committee, warrant the passage of the bill. The case is subject to further action by the Commissioner of Pensions upon the receipt of the additional evidence called for by him; and until the claimant shall have made due effort to comply with the requirement of that officer it would seem that Congressional action is not necessary to be had. In addition it may be said that the evidence before the committee is not sufficient to support a report recommending the passage of the bill. It is, therefore, reported adversely, and the committee recommends its indefinite postponement, not, however, intending thereby to prejudice the case on its course towards adjustment by the Commissioner of Pensions.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 976.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 9, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bills H. R. 2920 and S. 2282.]

*The Committee on Pensions, to whom were referred the bills (H. R. 2920 and S. 2282) for the relief of John Johnson, respectfully submit the following report:*

John Johnson was a private in Company D, Second Regiment Wisconsin Infantry, and had his right arm and a part of his shoulder blade shot away at the battle of Fredericksburg, December 13, 1862. For this disability he is now allowed a pension at the rate of $30 per month. Under the general law no further increase can be allowed him by the Pension Office, unless he requires the constant attendance of an assistant. The bills propose to extend to Johnson the provisions of the act of March 3, 1879, which fixed the rate of pension for amputation of either leg at the hip joint at $37.50 per month.

The Committee on Invalid Pensions of the House of Representatives, which considered his case, expressed the opinion, taking all things into account—

(1.) That the total loss of an arm is a greater disability than the loss of a leg, because it deprives the sufferer of the use of any artificial appliances whatever;

(2.) That the mutilation of the body, in addition to the total loss of an arm at the shoulder joint, affects the bodily health in a much greater degree than the loss of a leg at the hip joint, the inability to exercise the half of the body tending to engender lung diseases; and,

(3.) That John Johnson, aforementioned, is more disabled than he who has lost a leg at the hip joint, inasmuch as he is debarred from mechanical and other pursuits to a much greater degree.

While we do not agree entirely with the propositions stated in the House committee report, but because Johnson suffers from other disability in addition to the loss of an arm, we recommend the passage of the bill H. R. 2920, and that the bill S. 2282 be laid on the table.

O

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 977.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 9, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 6665.]

*The Committee on Pensions, to whom was referred the bill (H. R. 6665) granting a pension to James Stack, having considered the same, respectfully report as follows:*

James Stack was honorably discharged from Company F, One hundred and thirtieth Regiment Illinois Volunteers, August 11, 1865, on account of disability contracted in the service, but the Pension Office did not feel warranted in granting him a pension, because it held that his disability was not incurred in the line of duty. It appears that claimant was injured and came near dying by the caving in of a sand-bank in which he was digging while in the employ of the post sutler. John B. Reid, his lieutenant-colonel, certified, when Stack applied for discharge on the ground of disability, that he was injured as claimed, and that he was employed by the sutler "by permission of his company and regimental commanders."

As the soldier had received the permission of his company and regimental commanders to engage in the work in which he was injured, and was in the service, and as his disability is shown to have continued, your committee believe him entitled, under all the circumstances, to the benefits of the pension laws, and we therefore recommend the passage of the bill.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 978.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 9, 1885.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 2987.]

*The Committee on Pensions, to whom was referred the bill (H. R. 2987) restoring Rebecca Walcott to the pension-roll, have examined the same, and report:*

The facts are fully set forth in the report of the Committee on Invalid Pensions of the House of Representatives during the last session of the present Congress, as follows:

Rebecca Walcott is the mother of James A. Walcott, corporal Company E, Second Vermont Volunteers, who enlisted at the breaking out of the war of the rebellion; in December, 1863, he re-enlisted into the same regiment as a veteran volunteer, serving until August 21, 1864, at which time he was killed in action at Charlestown, Va., his total service at the time he was killed being three years three months. Rebecca Walcott was placed upon the pension-roll as a dependent mother, at $8 per month, from August 24, 1864, payment on which was continued to April 25, 1870, at which time she was dropped from the roll on charge of "non-dependence on the son." The circumstances which led to the dropping of Mrs. Walcott from the roll were as follows:

James Walcott, father of James A. and husband of Rebecca, paid Jason L. Fowler, a son-in-law, in February, 1866—who being without means and desiring to purchase a farm—the sum of $2,000, of which he was then possessed, in consideration of which Walcott took a bond, secured by a second mortgage, on the Fowler farm, Fowler therein binding himself for the life-support of Walcott and his wife, the price paid for the farm being $4,000—a war price. Fowler being unfortunate could not keep up his payments. The first mortgage was foreclosed and the farm was sold at less than the face of the first mortgage, and Fowler was ousted, losing the $2,000 borrowed of Walcott beside other money which he had paid in toward the debt. James Walcott, the father, died in 1872, leaving Mrs. Walcott entirely alone and dependent. Fowler having in the mean time become discouraged at his losses, and having no trade, was in such condition that he could not earn a support for his wife and three children, and, of necessity, Mrs. Walcott could not be supported by him, and is now in her seventy-ninth year, left to her own resources. She applied for reinstatement on the pension-roll, filing new evidence as to her condition of dependence. Her claim was rejected, the reasons given being "papers recently filed do not change status." Mrs. Walcott bitterly feels in her old age the need of the son who, had he lived—but whose life she gave to her country—would have been her prop and natural supporter in her declining years. Your committee, in view of all the circumstances, the extreme age and present absolute dependence of Mrs. Walcott, do therefore recommend the passage of the accompanying bill with an amendment:

Strike out in the fourth line the words "to place on," and substitute therefor the words "restore to," and amend the title of the bill so it shall read, "A bill restoring Rebecca Walcott to the pension-roll."

The father was shown by evidence of family physician to have been almost wholly disabled physically for years before the son was killed, and ever since, and it appears quite clear from the evidence that he did not own property of any considerable value above the incumbrances at

the time the son was killed, and all that he had in the world to depend upon and to assist in the support of the mother was the bond for their support given by a son-in-law, which was swept away by sale on prior incumbrance. So that there really was no security for the mother's support at the time the pension was granted to her.

Therefore your committee conclude that the conclusion reached in the Pension Office, that the father was able or had means to support the mother at the time of the son's death, is not justified by the facts in the case as now presented. This claimant is now over eighty years of age, and is entirely without means of support.

It also appears that at least the amount of $125 of the son's bounty went to the father after the enlistment of his son, and also that the son, who was over full age, worked for his parents and lived at home up to the time of his enlistment. In view of all the circumstances in the case your committee think that this claimant should be restored to the roll, and therefore report back the bill with a favorable recommendation.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 979.

IN THE SENATE OF THE UNITED STATES.

JANUARY 12, 1885.—Ordered to be printed.

Mr. VAN WYCK, from the Committee on Public Lands, submitted the following

# REPORT:

[To accompany bill H. R. 3479.]

*The Committee on Public Lands, to whom was referred bill H. R. 3479, beg leave to submit the following report:*

That they have suggested certain amendments, which will appear in the body of the bill.

The necessity of additional legislation to protect the public domain because of illegal fencing is becoming every day more apparent. Without the least authority, and in open and bold defiance of the rights of the Government, large, and oftentimes foreign, corporations deliberately inclose by fences areas of hundreds of thousands of acres, closing the avenues of travel and preventing the occupancy by those seeking homes. While those fencing allege the lands within such inclosures are open to settlement, yet no humble settler, with scarcely the means for the necessaries of life, would presume to enter any such inclosure to seek a home.

The Government has sufficient authority to drive those seeking homes from the Indian Territory, and to burn the ranches of those invading the Yellowstone Park, while those appropriating vast areas are hoping the only remedy to be used against them will be the law's delay in the courts.

Therefore your committee have added a new section to the Army bill, authorizing the President of the United States to summarily remove all obstructions, and, if necessary, to use the military power of the United States.

O

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 980.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 12, 1885.—Ordered to be printed.

Mr. DOLPH, from the Committee on Public Lands, submitted the following

## REPORT:

[To accompany bill S. 2482.]

The Committee on Public Lands, to whom was referred the bill (S. 2482) to amend sections 1 and 2 of an act of Congress entitled "An act for the sale of timber-lands in the States of California, Oregon, and Nevada, and in Washington Territory," approved June 3, 1878, have had the same under consideration, and report the same back with the recommendation that it do pass.

The act of June 3, 1878, for the sale of timber lands in the States of California, Oregon, and Nevada, and in Washington Territory was intended to authorize the sale of lands chiefly valuable for timber for commercial purposes. In the first section of the act the words "and not fit for agriculture" occur. They were evidently put in the law for the purpose of excluding from the operation of the act lands which, although timbered lands, are of such a character as to be suitable for homesteads, and which may be profitably cleared and cultivated. The Secretary of the Interior has construed the law to mean that, if the lands when cleared of the standing timber and stumps would be fit for cultivation, they cannot be purchased under the act, and has suspended all entries of such lands. The result is that the law under this construction is useless and fails to accomplish the purpose it was intended to accomplish. All the land in Western Oregon and in Western Washington upon which valuable timber grows is good land and will, when cleared, if it ever is, of the timber and stumps, be suitable for agriculture.

The natural wealth of Western Oregon and Washington is largely in timber, and the timber will never be extensively cut down and burned to clear the land for agricultural purposes. In most cases the man who takes a homestead or pre-emption claim upon such lands intends to secure his title for the timber by an evasion of the law so far as cultivation is concerned. The settler who would make the necessary *bona fide* improvement upon a quarter section of this heavily timbered land, such as is sought for its timber, and should comply with the requirements of the homestead law, would prove a damage instead of a benefit to that portion of the country. The cost of clearing such land is at least $100 per acre, besides which the clearing would endanger the valuable timber upon public and private lands by the liability of the spreading of fires which are always set in the clearings during the dry season. Under the present ruling of the Interior Department the most valuable timber cannot be purchased under the act of June 3, 1878, pro-

vided the land could be cultivated after the timber is removed. To expect any one to make a home upon such land until the timber is removed for commercial purposes is idle. To allow parties to secure such heavily timbered land under any law upon the pretense that it is for a home is a farce. It is not taken for agricultural purposes and will not be. It should be sold as timber land. In Western Washington, as your committee is informed, land can be purchased of private parties, from which the timber has been either cut or burnt off, for $1 per acre. The amendment proposed by the bill to the existing law is to strike out from the first section the words "and not fit for agriculture," and from the second section the equivalent words "unfit for cultivation and," so that land in the States and Territory mentioned in the law, which is chiefly valuable for timber, and which, in its present state, is unfit for agricultural purposes and cannot be rendered fit for cultivation except by an outlay many times greater than the value of the land after it is cleared, can be sold for its timber, and the timber, instead of being wantonly destroyed for the purpose of clearing the land and made the means of wholesale destruction to the forests of the country, may be manufactured and made to add to the wealth of the country, and the lands by that process fitted for agricultural purposes—so that parties can purchase this land of the Government for commercial purposes and not be compelled, if they secure it at all, to take it under the homestead and pre-emption laws, and in most cases to evade the law as to cultivation, to procure title.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 981.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 12, 1885.—Ordered to be printed.

Mr. DOLPH, from the Committee on Public Lands, submitted the following

# REPORT:

[To accompany bill H. R. 100.]

*The Committee on Public Lands, to which was referred the bill (H. R. 100) entitled "An act for the relief of certain pre-emption and homestead settlers in California," having carefully considered the same, submits the following report:*

The following is a copy of the bill:

A BILL for the relief of certain pre-emption and homestead settlers in California.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all actual settlers *or occupants in good faith* upon lands lying within the limits of said late Moquelamos Rancho, *in the State of California*, as defined in said grant, namely, "bordering on the north upon the south shore of the Moquelamos River, on the east upon the adjacent ridge of mountains, on the south upon the lands of Mr. *Gulnac*, and on the west upon the estuaries of the shore," which shall be surveyed by direction of the Secretary of the Interior, be, and they are hereby, authorized to enter the lands *respectively* claimed by them under the pre-emption and homestead laws, and to receive patents therefor of the United States; and said settlers *or occupants* shall be entitled to have the time required to perfect their title computed from the date of their original settlement on the land: *Provided*, That no person shall be construed to be an occupant in good faith who does not personally reside on the 160 acres claimed by him.

It will be observed that the objects sought to be accomplished by the bill are (1) to direct a resurvey of the rejected Moquelamos Rancho, and (2) to authorize all actual settlers and occupants in good faith upon lands lying within the limits of said rancho to enter the lands respectively claimed by them under the pre-emption and homestead laws, to receive patents therefor from the United States, and to date their settlement under such laws from the time of their actual settlement upon the lands.

There is a controversy as to the "limits of said late Moquelamos Rancho," and to intelligently discuss the merits of this bill, it is necessary to know something of the history of the grant known as the Moquelamos grant, of the disposition heretofore made by the Government of the lands which would be affected by the bill if it should become a law, of the judicial decisions heretofore made concerning the title to them, and of the origin and nature of the adverse claims now made to them.

The following is a summary of the principal facts concerning these lands:

In the year 1846, Pio Pico, Mexican governor of California, made a

grant of lands to Andreas Pico, which was afterwards known as the "Moquelamos grant." Said grant was in these words:

1. He will be the owner in fee of eleven square leagues on the river Moquelamos, bordering upon the north upon the southern shore of said river; upon the east upon the adjacent ridge of mountains; upon the south upon the land of Mr. Gulnac, and on the west upon the estuaries of the shore.

* * * * * * *

There was no *diseño* accompanying the grant. The grant to Gulnac, referred to as the southern boundary, was surveyed in February and March, 1858, and the location became final in February, 1862.

Pico made claim before the board of land commissioners, appointed pursuant to the act of Congress of March 3, 1851. The petition was filed September 22, 1852. It states:

Your petitioner, Andreas Pico, a native of Mexico and citizen of Los Angeles, in California, respectfully represents that in the month of May, 1846, your petitioner presented his petition to Pio Pico, governor of California, * * * for a grant of eleven leagues of land, constituting the tract known as "Moquelamos," * * * &c. The said land is bounded on the north by the southern shore of the Moquelamos River; on the east by the Sierra or range of mountains called ———; and on the south by the lands of Mr. Gulnac; and on the west by the estuaries of the beach.

Accompanying the petition was a copy of the alleged grant in Spanish and a translation of the same, of which a copy is hereto attached, marked A. In the Spanish copy the eastern boundary of the grant is called *Sierra Immediata.* In the translation this is expressed by the English words "adjacent ridge of mountains." There seems to be some controversy as to what is the correct translation and precise meaning of "*Sierra Immediata.*"

Pico's claim was rejected by the commission, allowed on appeal in the district court, but that decree having been reversed and a further hearing allowed by the Supreme Court of the United States (22 Howard, 406), on such further hearing the claim was rejected by the district court, and on the 13th day of February, 1865, rejected by the Supreme Court of the United States. (Pio. Pico *vs.* U. S., 2 Wall., 279.) Pending the litigation upon this claim, by acts of Congress approved July 1, 1862, and July 2, 1864 (12 Stats., 492, and 13 Stats., 356), a grant of lands was made in California to aid in the construction of the road now known as the Central Pacific Railroad.

Sections 3 and 7 of said act of July 1, 1862, are as follows:

SEC. 3. *And be it further enacted,* That there be, and is hereby, granted to the said company, for the purpose of aiding in the construction of said railroad and telegraph line, and to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores thereon, every alternate section of public land, designated by odd numbers, to the amount of five alternate sections per mile on each side of said railroad, on the line thereof, and within the limits of ten miles on each side of said road, not sold, reserved, or otherwise disposed of by the United States, and to which a pre-emption or homestead claim may not have attached, at the time *the line of said road is definitely fixed: Provided,* That all mineral lands shall be exempt from the operation of this act; but where the same shall contain timber, the timber thereon is hereby granted to said company.

SEC. 7. *And be it further enacted* * * * That within two years after the passage of this act said company shall designate *the general route of said road,* as near as may be, and shall file a map of the same in the Department of the Interior, whereupon the Secretary of the Interior shall cause the lands within *fifteen* miles of said designated route or routes to be withdrawn from pre-emption, private entry, and sale; *and when any portion of said route shall be finally located,* the Secretary of the Interior shall cause the said lands *hereinbefore granted,* to be surveyed and set off as fast as may be necessary for the purposes herein named, &c.

The act of July 2, 1864, extended the grant to ten instead of five sections, and contained the following clause defining exceptions to the grant:

And any lands granted by this act, or the act to which this is an amendment, shall

ıt or impair any pre-emption, homestead, swamp land, or other lawful claim de any Government reservation or mineral lands, or the improvements of any settler. * * *

preliminary location of the line of the company's road was made ı the Moquelamos claim, and a map thereof filed with the Honora- retary of the Interior on the 9th day of December, 1864, and on t day of January, 1865, the alternate sections, designated by odd rs, within the limits of the grant, were withdrawn from market, the year 1868 the line of the road was definitely located through aim.

nts were issued to the railroad company bearing date respectively ), 1870, April 3, 1872, February 28, 1874, November 23, 1875, and , 1879, in the aggregate for 14,175.55 acres of land. The lands ed are all odd sections, and lie within the limits of the grant des- l in the act of Congress.

act of Congress approved August 31, 1852, entitled "An act ; appropriations for the civil and diplomatic expenses of the ıment for the year ending June 30, 1853, and for other purposes," ıed the following provision:

ırveying private claims in California which may have been presented in ;h, to the board of land commissioners $22,500: *provided*, that the authority onferred upon the surveyor-general shall apply only to such unconfirmed cases ı gradual extension of the lines of the public surveys, he shall find within the te sphere of his operations and which he is satisfied ought to be respected ıally surveyed in advance of confirmation.

· the passage of this act, on November 28, 1855, the following tions to the surveyor-general of California, relating to the sur- private land claims in that State, were issued from the General )ffice:

[Instructions of the General Land Office of November 28, 1855.]

HAYS, Esq.,
*Surveyor-General of California:*

n reference to certain questions and difficulties respecting the survey of pri- d claims in California, the following is presented for your information and ıent:

* * * * * *

When the record and decree of final confirmation fix the area claimed, * * * figurative plan or map delineative of the limits gives a surface much larger ı area confirmed, the location is to be taken within that surface, in a compact cording to the lines of the public surveys, at the election of the confirmee, * *

n any case of this class the surveyor-general should make a formal demand ı confirmee to give in writing a specific designation of the locality he may ithin the extended limits indicated by the plat in the record, and a period e fixed within which he should be required to make his election. In default liance it will be the duty of the surveyor-general to exercise his sound judg- fixing the location.

* * * * * *

f, however, in the gradual progress of the public surveys, the surveyor-gen- ıroaches the location of a claim not finally confirmed, but which has been pon by either the board of land commissioners or the United States district nd is still pending on appeal, it will be his duty, when the exterior lines of ım are clearly defined, to close the lines of the public surveys on or near the ı by legal subdivisions at such points, either within or without the lines of ım, as will most nearly approximate its alleged boundaries; but where the ies are not clearly defined a similar course of proceeding should be taken as d under the 5th head in the foregoing. * * *

352 and 1853 township lines were run by the United States sur- general within the boundaries of the Moquelamos grant. In 1855 ıtion lines were run and plats of the surveys filed in the proper

land office of the lands lying east of the range line between ranges 7 and 8 east, now claimed to fall within said grant. From the time of the survey and filing of the plats these lands east of said range line were treated as all other surveyed public lands by the United States Land Office and all Government officers having anything to do with them; and pre-emption claims, and, after the passage of the homestead law, homesteads, were entered, proved up, allowed, and patented.

On the 15th and 16th of February, 1859, upon proclamation made by the President of the United States, these lands were offered at public sale at the land office at Stockton, and some sold and patented; and after such public sale the lands were open for private entry to any parties desiring to purchase in the same manner as all other surveyed public lands are open to private entry after having been offered at public sale in pursuance of proclamation by the President, and many of them were so entered.

After the rendition of the decree in the district court of the United States for the district of California, in April, 1857, confirming the Moquelamos grant, and in May or June of that year, Pico caused a survey of his claim to be made which located the eastern boundary of his claim west of the range line between ranges 7 and 8 east, and in September, same year, the surveyor who surveyed the claim for Pico made a county map of San Joaquin County, the county in which the Moquelamos claim was situated, upon which the boundaries of the claim, as surveyed by him, were designated, and which showed the eastern line of the claim to lie west of said range line between ranges 7 and 8 east. After the rendition of the decree in the United States circuit court rejecting the claim a portion of the tract west of said range line was sectionized and plats thereof filed. Pico having appealed from the decision of the circuit court rejecting the claim to the Supreme Court of the United States, in September, 1864, Messrs. Stanley & Hayes, his attorneys in the suit, addressed the following letter to the surveyor-general of California:

*To L. Upson, esq., Surveyor-General of the United States for the State of California:*

SIR: You will please take notice that the land hereinafter described, and which is located in the State of California, is claimed under a grant from the Mexican Government made to Andreas Pico by Pio Pico, then governor of Upper California, in the month of May, 1844, and confirmed to said Andreas Pico in 1846, and that said land is claimed under said grant, and the said claim has been appealed to the Supreme Court of the United States in a certain proceeding entitled Andreas Pico *vs.* The United States, and is now pending therein, and is undetermined.

That said land lies on the Moquelamos River, in what is now the county of Calaveras, and includes and covers the land embraced in township 2 north, ranges 5, 6, and 7 east, Mount Diablo meridian; also township 3 north, ranges 5, 6, and 7 east, Mount Diablo meridian; also township 4 north, range 6 east, Mount Diablo meridian, part of township south of Moquelumne River; also township 4 north, range 7 east, Mount Diablo meridian, part of township south Moquelumne River; also township 4 north, range 5 east, Mount Diablo meridian, part of township south of Moquelumne River.

And you will please farther take notice that said land is not subject to entry or pre-emption, and you are hereby requested to suspend all proceedings to pre-empt said land, or any part thereof, until the final determination of said claim. Said claim is known in the district court of the United States for the northern district of the State of California as case No. 184, and to which reference is hereby made for a more particular description and information in regard thereto.

Dated San Francisco, September 22, 1864.

STANLY & HAYES,
*Attorneys for Claimant.*

Upon this letter is indorsed: "Suspended September 21, 1864."

The date of the letter, or that of the indorsement is undoubtedly mistake.

Thereupon the surveyor-general sent the following letter to the register of the United States land office at Stockton:

UNITED STATES SURVEYOR-GENERAL'S OFFICE,
*San Francisco, September* 21, 1864.

SIR: You are hereby notified that the below-mentioned townships and parts of townships included in your register of homestead entries and land sold during the month of August, 1864, are suspended, to await the final determination of the boundaries of the Rancho Moquelamo, now pending before the Supreme Court:

T. 2 N., Rs. 5, 6, and 7 E.
T. 3 N., Rs. 5, 6, and 7 E.
T. 4 N., R. 6 E. (part south of river).
T. 4 N., R. 7 E. (part south of river).
T. 4 N., R. 5 E. (part south of river).
All of Mount Diablo meridian.

Very respectfully, your obedient servant,

L. UPSON,
*United States Surveyor-General.*

S. T. NYE, Esq.,
*United States Register, Stockton.*

Indorsed: "Received, September 24, 1864."

This suspension continued until after the final determination of the claim, when the following letter was sent to the register at Stockton by the surveyor-general.

UNITED STATES SURVEYOR-GENERAL'S OFFICE,
*San Francisco, November* 27, 1865.

SIR: The below-mentioned townships, which were suspended by our letter of September 21, ultimo, are hereby released from supension:

T. 2 N., Rs. 5, 6, and 7 E.
T. 3 N., Rs. 5, 6, and 7 E.
T. 4 N., R. 6 E.
T. 4 N., R. 7 E.
T. 4 N., R. 5 E., is still suspended.

Very respectfully, your obedient servant,

L. UPSON,
*United States Surveyor-General.*

S. T. NYE, Esq.,
*Register United States Land Office, Stockton, Cal.*

The lands so reserved were platted and designated as supposed "Moquelamos grant." December 16, 1870, the register of the land office at Stockton, in answer to a request from the Commissioner of the General Land Office for a specific diagram of the rancho Moquelamos with a letter of that date, transmitted copies of said letters of the Surveyor-General of September 21, 1864, and November 27, 1865, together with a diagram of the land withdrawn, for the Moquelamos claim.

A copy of the diagram is hereto attached and marked Exhibit B.

The following is a copy of the letter of the register, transmitting the diagram:

UNITED STATES LAND OFFICE,
*Stockton, Cal., December* 16, 1870.

SIR: Referring to your letters dated July 21 and November 8, 1870, respecting the rancho Moquelamos, and calling for a specific diagram of the same, I now have the honor to forward you a diagram which shows the land that was withdrawn, as per inclosed letter of United States Surveyor-General, dated September 21, 1864; also letter from United States Surveyor-General, dated November 27, 1865; also letter from United States Surveyor-General, bearing date September 16, 1870.

The above is all the information that I from the records of this office can give.

Your obedient servant,

S. T. NYE,
*Register.*

To the COMMISSIONER OF THE GENERAL LAND OFFICE,
*Washington, D. C.*

After the rejection of the Moquelamos claim by the Supreme Court the United States, and subsequent to the issue of patents for the unsol odd sections to the railroad company, patents were issued to certai claimants under the pre-emption or homestead laws, or both, for lanc which had been patented to the railroad company, and which were en braced within said reservation by the surveyor-general of California. I the case of Sanger *vs.* Sargent, decided in the circuit court of the Unite States for the district of California, the decision in which was rendere September 26, 1874, it was held that the odd sections within the limi of the Congressional grant to the Western Pacific Railroad Compan which were also, at the time the line of the road was definitely locate within the limits of land claimed under an invalid Mexican grant, wer not reserved lands within the meaning of that term in section 3 of th act making the grant to the railroad company.

In the case of C. P. R. R. Co. *vs.* Yolland, decided at the January term, 1875 (opinion filed March 15, 1875), the supreme court of the State of Califronia held that the lands within the exterior boundaries of the Moquelamos claim were not reserved by the United States in the said act of July 1, 1862, and that they did not constitute a portion of a Government reservation within the meaning of the act of July 2, 1864.

The above decision was followed in three cases of a similar character decided by the same court upon the same day; and subsequently, in th case of The Western Pacific Railroad Company *vs.* H. E. Dillingham *et al.* (opinion rendered May 14, 1875), and in the case of Stewart *vs* Western Pacific Railroad Company (opinion rendered July 18, 1875 Hon. C. Delano, the then Secretary of the Interior, followed the deci ion of the circuit court for the district of California in the case c Sanger *vs.* Sargent, and the above-mentioned decisions of the suprem court of California.

In the case of Newhall *vs.* Sanger, in the circuit court of the Unite States for the district of California, which was a suit brought by t claimant of a tract of land who deraigned his title to the same from t railroad company, and under a United States patent to the compan against a party claiming the same land under a junior patent, the cou followed the previous case of Sanger *vs.* Sargent, sustained a demurr to the bill, and decreed the cancellation of the junior patent.

Upon appeal of this case to the Supreme Court the decision of t court below was reversed, the court holding that land within the e terior limits of a Mexican grant *sub judice* at the time the grant to t Western Pacific Railroad Company took effect was reserved from t operations of the act.

Mr. Justice Davis, delivering the opinion of the court, says:

The status of lands included in a Spanish or Mexican claim pending before the bunals charged with the duty of adjudicating it must be determined by the condit of things which existed in California at the time it was ceded, and by our subsequ legislation. The rights of private property, so far from having been impaired by change of sovereignty and jurisdiction, were fully secured by the law of nations well as by treaty stipulation. It had been the practice of Mexico to grant large tra to individuals, sometimes as a reward for meritorious public services, but genera with a view to invite emigration and promote the settlement of her vacant territo The country, although sparsely populated, was dotted over with land claims.

Exact information in regard to their extent and validity could hardly be obtai during the eager search for gold which prevailed soon after we acquired Califor It was not until March 3, 1851, that our Government created a commission to recei examine, and determine them. As the operations of our land system, had it then b extended to California, would have produced the utmost confusion in titles to real est within her limits, it was wisely withheld by Congress until such claims should be posed of. The act of that date declared that all lands the claims to which should have been presented within two years therefrom "should be deemed, held, and c

sidered to be a part of the public domain of the United States." *This was notice to all the world that lands in California were held in reserve to afford a reasonable time to the claimant, under an asserted Mexican or Spanish grant, to maintain his rights before the commission.* He was not bound by its adverse decision, but was entitled to have it reviewed by the district court, with a right of ultimate appeal to the Supreme Court. If he, however, neglected to take timely and proper steps to obtain such review, the decision was thereby rendered final and conclusive. *The lands then fell into the category of public lands.* The same remark will apply to the judgment of the district court; but if he prosecuted his appeal to the tribunal of last resort, the *reserved lands retained their original character in all the successive stages of the causes as they were regarded as forming a part of our national domain only after the claim covering them had been "finally decided to be invalid."*

A failure, therefore, to present the claim within the required time, or a rejection of it, either by the commission or by the district court, without seeking to obtain a review of their respective decisions, or by this court, rendered it unnecessary to further reserve the claimed lands from settlement and appropriation. They then became public in the just meaning of that term, and were subject to the disposing powers of Congress.

It may be said that the whole of California was part of our domain, as we acquired it by treaty and exercised dominion over it. The obvious answer to all inferences from this acknowledged fact, so far as they relate to this case, is that the title to so much of the soil as was vested in individual proprietorship did not pass to the United States. It took the remaining lands subject to all the equitable rights of private property therein which existed at the time of the transfer. Claims, whether grounded upon an inchoate or perfect title, were to be ascertained and adequately protected. This duty, enjoined by a sense of natural justice and treaty obligations, could only be discharged by prohibiting intrusion upon the claimed lands until an opportunity was afforded the parties in interest for a judicial hearing and determination. It was to be expected that unfounded and fraudulent claims would be presented for confirmation. There was, in the opinion of Congress, no mode of separating them from those which were valid without investigation by a competent tribunal; *and our legislation was so shaped that no title could be initiated under the laws of the United States to lands covered by a Spanish or Mexican claim until it was barred by lapse of time or rejected.*

This is, in our opinion, the true interpretation of the act of 1851. Until recently it governed the action of the Interior Department upon the advice of the law officers of the Government (11 Op. Att'y Gen., 493; 13 Id., 388), and was, at least by implication, sanctioned by this court in Frisbie *vs.* Whitney (9 Wall., 187). No subsequent legislation conflicts with it. On the contrary, the excepting words in the sixth section of the act of March 3, 1853, introducing the land system into California (10 Stats., 246), clearly denote that lands such as these, at the time of their renewal, were not considered by Congress as in a condition to be acquired by individuals or granted to corporations. This section expressly excludes from pre-emption and sale all lands claimed under any foreign grant or title.

It is said that this means 'lawfully' claimed; but there is no authority to import a word into the statute in order to change its meaning. Congress did not prejudge any claim to be unlawful, but submitted them all for adjudication. Besides the act of March 3, 1853, which authorized the settlement and purchase of the lands released by the operation of the law of 1851, there was a general law (10 Stat., 244) passed on the same day, which conferred upon a settler on lands theretofore reserved on account of claims under foreign grants, there and thereafter declared by the Supreme Court to be invalid, the rights granted by the pre-emption law, after the lands should have been released from reservation—a class of lands which, from an early day, it had been the policy to reserve until the adjustment of all such lands (see act of 1811, 2 Stat., p. 664, 665, secs. 6, 10). This provision clearly implies that no right of pre-emption previously attached to lands of that description by reason of settlement and cultivation. (Newhall *vs.* Sanger, 2 Otto, p. 761, *et seq.*)

Several actions of ejectment have been brought by parties deraigning title from the railroad company in the State courts of California, and in the United States circuit court for the district of California, against persons who have gone upon the lands patented to the company, claiming the same under the pre-emption and homestead laws. The supreme court of California holds that persons in possession and claiming such lands under the pre-emption or homestead laws may attack in such actions the patents issued to the railroad company, and set up by way of defense the invalidity of the patents, and the facts of their qualifications to purchase the land under the pre-emption and homestead laws,

their residence upon and cultivation of the land, and their application to enter the land as pre-emption and homestead claimants.

In the case of Carr *vs.* Quigley (57 Cal. R., 395), which was an action of ejectment, the plaintiff deraigned title from the Western Pacific Railroad Company. Defendant offered to prove that the land in controversy was, at the time when the lands along the line of the road were withdrawn from pre-emption, private entry, and sale, within the limits of a Mexican grant, then *sub judice*, and therefore reserved from the operation of the grant. The proof was objected to, and the objection sustained by the court below. The supreme court, upon appeal, held that the validity of a patent purporting to grant lands which the officers of the Government have no authority to convey may be controverted in any action, directly or collaterally, and that a patent issued to the Pacific Railroad under the act of July 2, 1864, for lands within the limits of a Mexican grant *sub judice* at the date of the withdrawal of the lands is void, and may be attacked collaterally.

The judgment of the court below was reversed, and the cause remanded for a new trial.

In the case of McLaughlin, respondent, *vs.* Heid, appellant, reported in the Pacific Coast Law Journal, vol. 2, p. 80, the supreme court of California followed the case of Carr *vs.* Quigley, and held that a patent issued to the Central Pacific Railroad under the acts of Congress passed in the years 1862 and 1864 could be attacked collaterally by a party in possession who had offered to file his declaratory statement as a pre-emption claimant and whose application had been refused by the officers of the land office.

The syllabus of the case is as follows:

**Patent—Mexican grant—Pre-emption—Railroad lands—Land law—Evidence—Ejectment.**

Plaintiff claimed under a patent of the United States purporting on its face to have been issued under a grant of land made to the Central Pacific Railroad and the Western Pacific Railroad Company by acts of Congress passed in the years 1862 and 1864.

To defeat the recovery, defendant offered to show that at the time of the grant by Congress, under which the patent to the plaintiff's grantor purports to have been issued, the land in controversy was included within the exterior limits of a tract of land known as "Moquelamos," which was reserved from the grant to the railroad mentioned; that afterwards, on the 5th of December, 1867, he (defendant) was a qualified pre emptor, and as such entered on the land in dispute for the purpose of acquiring title thereto under the pre-emption laws of the United States, and has improved the land and continued to reside thereon ever since; that at the time of his settlement the land was, and ever since has been, surveyed agricultural land of the United States, and subject to pre-emption; that on the 1st day of February, 1877, he (defendant) prepared and offered to file in the land office of the proper district his declaratory statement, in due form of law, of his claim to the land, and that the register of the land office, without right, refused to permit him to do so, from which decision of the register he appealed, and his appeal is still pending and undetermined by the Commissioner of the General Land Office at Washington.

This offer was excluded by the court, and defendant reserved an exception to the ruling.

Held, on authority of Carr *vs.* Quigley, 57 Cal., 395, the exclusion of the testimony was erroneous.

There has been no decision of the supreme court of the State since the decision in Newhall *vs.* Sanger in the Supreme Court of the United States, that your committee is aware of, upon the question of the validity of the patents to the railroad company. The circuit court of the United States, on the contrary, holds that the defendants in such actions have no privity with the United States, and that evidence of an

attempt to comply with the conditions of the pre-emption and homestead laws, as to lands patented to the railroad, is incompetent. There are two cases now pending in the Supreme Court of the United States upon writs of error to the United States circuit court of California in which the competency of such testimony in an action of ejectment to impeach the patents issued to the railroad company will be determined.

It is claimed on the one side that the reservation made by the surveyor-general was not authorized by law. On the other side it is contended, and there seems to be much force in the proposition, that such reservation was authorized by the act of August 31, 1852, and was in accordance with the instructions of the General Land Office of November 28, 1855; that the order of the surveyor-general fixed the lines of the public surveys, then shown upon the Government plats in his office, as limits of the Moquelamos claim, and that the plat was accepted by the commissioner as "a plat of the surveyed boundaries of the Moquelamos grant," and that this was equivalent to an actual survey under said act.

In the case of the United States *vs.* The Central Pacific Railroad Company, in the circuit court of the United States for the district of California, Judge Sawyer, who is an able, learned, and pains taking judge, and who came to the consideration of the case with the advantage of a thorough knowledge of the law concerning private land claims in California, and with perfect familiarity with all the decisions which had been made concerning the Congressional grant to the Western Pacific Railroad Company, and concerning the Moquelamos claim, in an exceptionally able and exhaustive opinion, held that the said reservation by the surveyor-general of California, under the circumstances under which it was made, emancipated the residue of lands, if any there were, within the exterior boundaries of the grant from the Mexican claim.

We quote the following from that decision:

Andreas Pico presented to the Board of Land Commissioners for settling titles to lands in California, in pursuance of the act of Congress of March 3, 1851, a petition for a confirmation of a claim to a grant of a tract of land embracing 11 square leagues, called "Moquelamos." The description in the grant, as set out in the petition, is as follows: "Eleven square leagues on the river Moquelumne, bordering upon the north upon the southern shore of said river; on the east upon the adjacent ridge of mountains; on the south upon the land of Mr. Gulnac; and upon the west upon the estuaries of the shore." There was no diseño accompanying the grant. The grant to Gulnac, referred to as the southern boundary, was surveyed in February and March, 1858, and the location became final by dismissal of the appeal in February, 1862, before the Congressional grant to the railroad company by Congress. Thus, at the time of the Congressional grant, the northern, western, and southern exterior boundaries of the Moquelamos grant were fixed and certain, and the only point of uncertainty is the location of the eastern exterior boundary—"the adjacent ridge of mountains"—and its proper location would depend upon where the ridge is situated, and what points of the ridge are to be taken for the line. The range line of the public surveys, between ranges 7 and 8, crosses the tract of land now claimed by the complainant to be within the exterior boundaries of the Moquelamos grant, on such a line as leaves about 90,000 acres to the west of said range line, and about 60,000 acres to the east, making about 150,000 acres in the whole. The said range line, between ranges 7 and 8, lies further east than any point in the easternmost line of the lands of Mr. Gulnac—the Rancho el Campo de las Franceses—as finally located; and the final location corresponds very well with the diseño of the grant filed in the case. So that, between the said range line on the east, the lands of Mr. Gulnac, as granted and located, on the south, the estuaries of the shore on the west, and the Moquelumne River on the north, there are about 90,000 acres of land, or about 40,000 acres more than enough to satisfy the grant—11 square leagues, containing forty-eight thousand eight hundred and twenty-five and a fraction acres—or nearly double the amount called for by the grant.

To the east of said range line, between ranges 7 and 8, there are about 60,000 acres claimed by complainant to be within the exterior boundaries of the Moquelamos grant, bounded on the north by the Moquelumne and on the south by the Calaveras

Rivers; but no part of it is bounded by Mr. Gulnac's land, either as finally located, or as shown on the diseño to the grant – said Gulnac's land all lying to the westward of said range line. About two-thirds of the lands now in question lie in that portion of the assumed Moquelamos grant, which is east of said range line, between ranges 7 and 8, and about one-third to the west of said range line.

In 1852 and 1853 the township lines were run by the United States Surveyor-General, laying off all these lands within the boundaries of the Moquelamos grant, as claimed, into townships. In 1855 the section lines were run and plats of the surveys filed in the proper land office, for all lands lying east of said range line, between ranges 7 and 8. From the time of the survey and filing of the plats, these lands east of said range line, were treated all as other surveyed public lands by the United States Land Office, and all Government offices having anything to do with them and pre-emption claims, and, after the passage of the homestead laws, homesteads were recognized, proved up, allowed, and patented. In February—on the 15th and 16th of February, 1859—upon public proclamation made by the President of the United States, these lands were offered at public sale at the land office at Stockton, and some sold and patented; and, after such public sale, the lands were opened for private entry to any parties desiring to purchase in the same manner as all other surveyed public lands are open to entry, after having been offered at public sale in pursuance of proclamation by the President; and many of them were so entered. In September, 1864, Messrs. Stanley & Hayes, attorneys for the claimant, in the case pending in the United States courts, for confirmation of the Moquelamos grant, addressed a communication, bearing date September 22, 1864, to the Surveyor-General of the United States for the State of California, notifying him that the case was pending on appeal to the United States Supreme Court; that the land claim lay on the Moquelamos River, and "includes and covers the land embraced in township 2 north, ranges 5, 6, and 7 east Mount Diablo meridian; also township 3 north, ranges 5, 6, and 7 east, Mount Diablo meridian; also township 4 north, range 6 east, Mount Diablo meridian; part of township south of Moquelumne River; also township 4 north, range 7 east, Mount Diablo meridiam; part of township south of Moquelumne River; also township 4 north range 5 east, Mount Diablo meridian; part of township south of Moquelumne River.

They further notified the surveyor-general that the lands thus described were "not subject to entry or pre-emption," and requested him to suspend all proceedings in regard to pre-emption of "*said lands, or any part thereof, until the final determination of the claim.*" *On the notice* is indorsed, "Suspended September 21, 1864," one day earlier than the date of the notice. One of the dates is, doubtless, erroneous. On the same day the said surveyor-general addressed to S. F. Nye, register of the land office at Stockton, a communication, bearing date September 21, 1864, informing him that the "townships and plats of townships, including the lands described in the notice and request of Messrs. Stanley & Hayes, giving the same description as that contained in the notice were suspended to await the final determination of the boundaries of the Rancho Moquelamos, now pending before the United States district court." The claim to the grant was finally rejected by the United States Supreme Court as fraudulent, February 13, 1865; and thereupon the surveyor-general on November 21, 1865 revoked said suspension. All the lands described in said notice and request by Stanley & Hayes, in regard to which the surveys and plats were suspended, lie to the west of said range line, between said ranges 7 and 8, and within and constitute the 90,000 acres lying west of that line. Thus, it appears, that the attorneys of the claimant themselves limited their claim to lands lying west of said range line, between ranges 7 and 8, and only looked to those lands to satisfy this grant in case of a confirmation. There is no evidence that there was any other action on the part of the Government, or any of its officers reserving said lands or suspending action with reference to pre-emptions, homesteads, sale, or entry of them, or any part thereof, from the time of their survey in 1852 and 1855, down to the date of the withdrawal in consequence of filing the plat of the location of the Central Pacific Railroad, January 31, 1865, which was only thirteen days before the final rejection of the Moquelamos grant, after it had been pending for about thirteen years. With reference to the land lying east of the range line, between ranges 7 and 8, the certificate of Otis Perrin, receiver, and George A. McKenzie, register of the Stockton land office, is as follows: "We do hereby certify that the records of this office show that no land was ever withdrawn or reserved for the 'Moquelamos grant claim,' east of the line dividing ranges 7 and 8 east of Mount Diablo meridian." This it appears affirmatively by the uncontradicted evidence, that prior to the issuing of the patents in question, no action of any kind was ever taken by the Government, or any of its officers, to reserve any portion of this land east of said range line for the satisfaction of the Moquelamos grant, or for any other purpose except to satisfy the railroad grant in question. On the contrary, these lands were townshiped in 1852, sectionized in 1855, thenceforth opened to pre-emption until February, 1859, when they were offered for public sale, and some of them sold at Stockton in pursuance of the proclamation of the President of the United States, and thereafter held open for homesteads, pre-emption, and private entry, like all other public lands of the United States

There is no legal evidence in the case that the eastern exterior boundary of the grant, or the "adjacent range of the mountains," is in fact east of the said range line, between ranges 7 and 8. All the evidence indicates that the Gulnac claim never extended east of that line, and there is nearly double the amount necessary to satisfy the Moquelamos grant west of that line that is, in fact, bounded on the south by the Gulnac grant. The evidence claimed by complainant to be admissible to show the location of the "adjacent ridge of mountains," and the eastern exterior boundary of the Moquelamos grant, is a certified copy of a plat of a survey and location of that line filed in the office of the surveyor-general of California, June 3, 1879, made in pursuance of the directions of the Commissioner of the General Land Office, bearing date February 18, 1879. This proceeding is subsequent to the issue of these patents, and wholly *ex parte*. The Moquelamos grant had been rejected as fraudulent fourteen years before, and all the lands affected by the survey had been surveyed into sections, and in all respects dealt with and treated as public lands by all departments of the Government for about twenty-four years. Nearly all, if not quite all, had actually been patented by the United States to somebody. The statute authorizes the location of confirmed grants, but I know of none authorizing the location of rejected grants for any purpose, and especially for the location of the exterior boundaries of rejected Mexican grants many years after the rejection, embracing three times the amount of land called for by the grant. The lands were already officially surveyed, and all or nearly all disposed of. The main purpose would seem to have been to make evidence for this contemplated case. Certainly the United States Land Office can no more properly thus make legal testimony *ex parte* against its grantees to defeat grants already made in contemplated suits than any other grantor.

The answer alleges, and the uncontradicted testimony also establishes the fact, that all the lands included in the patents in question were conveyed by the Central Pacific Railroad Company to bona fide purchasers before the filing of this bill. And it also appears that a very large portion, if not all the lands, were also conveyed by the grantees of the defendant to various parties, so that now the lands are in the hands of numerous purchasers, many of them holding in small parcels. At the commencement of this suit, therefore, the Central Pacific Railroad Company, defendant, did not own an acre of the land in question, and it had no interest whatever in this controversy.

In 1876 the Supreme Court decided the case of Newhall *vs.* Sanger (92 U. S., 761), in which it was held that the odd sections within the *exterior* boundaries of the alleged Mexican grant called Moquelamos, the claim for confirmation of which had not been finally determined at the time of the withdrawal of the lands by the Secretary of the Interior in January, 1865, for the Central Pacific Railroad Company, were not "public lands" within the meaning of the act of Congress granting lands to that corporation, and were, therefore, not included in that grant—a majority of the Justices taking a different view of that question from that taken, and still confidently entertained by me, and reversing the judgment of this court on that ground. That decision settles the law upon that point, so far as this court is concerned, and is controlling in all cases to which it is fairly applicable, and it is probably applicable to all those lands embraced in the patents now in question, lying west of the range line, between ranges 7 and 8. I think, however, that it ought not to be held applicable to those lands situated to the east of said range line. The description of the Moquelamos grant is not very definite as to its eastern boundary. There is no desiño to make it definite. The quantity is limited to 11 square leagues, and its southern boundary is the land of Mr. Gulnac, and the eastern exterior boundary, as claimed by complainant, would carry it some 9 or 10 miles east of the eastern boundary of Gulnac's claim, while there is nearly twice as much land west of the range line, between ranges 7 and 8, which has, in fact, Gulnac's land for a southern boundary, as is necessary to satisfy the grant. Besides, the Government of the United States surveyed the lands east of said range line as public lands, and in all its departments treated them in all respects like other surveyed public lands, opening them to pre-emption, offering them for public sale upon proclamation by the President, and, afterwards, to private entry and for homesteads, and actually patented all, or nearly all, which had gone into second and still other hands before this bill was filed, and reserved an ample amount within the undisputed exterior boundaries for the satisfaction of the grant.

The appropriation act of August 31, 1852, appears to authorize proceedings restricting the location to smaller limits than the exterior boundaries, and surveying the surplus as public lands. The provision of the statute is: "For surveying private claims in California which may have been presented in good faith to the Board of Land Commissioners, twenty-two thousand five hundred dollars: *Provided*, That the authority hereby conferred on the surveyor-general shall apply only to such *unconfirmed* cases as in the gradual extension of the lines of the public surveys he shall find *within the immediate sphere of his operations*, and which he is satisfied ought to be respected, and actually surveyed *in advance of confirmation*."

In this case there was a claim for the unconfirmed Moquelamos grant pending be-

fore the Board of Land Commissioners, which, "*in the gradual extension of the lines of the public surveys*" the surveyor-general *seems to have found* "*within the immediate sphere of his operations, and which he was satisfied ought to be respected and actually surveyed in advance of confirmation.*" He accordingly surveyed it, leaving an ample quantity of by far the best and most valuable portions of the land west of the range line mentioned, to more than satisfy the grant, sectionizing and platting the surplus—being that part situate to the east of said range line—as "public land," subject to be treated as other public lands, and returning the surveys and plats to the proper land office. This proceeding seems to have been authorized by the provision of the statute cited, and to have emancipated that portion of the land lying to the east of the range line, between ranges 7 and 8 from any further claim under the Moquelamos grant. If that be the effect, then, there can be no question that these lands, at least, were subject to and embraced in the Congressional grant to the Central Pacific Railroad Company.

The claimant of the grant himself, also, as we have seen, by his counsel, limited his claim to the lands so reserved for the purpose lying west of the said range line, so that all parties in interest acquiesced in limiting the eastern exterior boundary of the land out of which the grant was to be satisfied to the said range line. Certainly, if the doctrine of estoppel applies to any case as against the United States it ought to be made applicable here, where all parties, including the claimant himself, for so many years acquiesced in accepting said range line as the eastern exterior boundary of the land within which the grant was to be located. Besides, as before suggested, there is no sufficient legal evidence as against the defendant, that the eastern exterior boundary is, in fact, east of that line. But conceding this recent *ex parte* survey to be legal evidence, it surely is not entitled to greater weight than the strictly official survey of 1855, executed under the express authority of the statute of 1852 cited, by which the eastern boundary of the tract out of which the grant was to be satisfied, was located at the range line, between ranges 7 and 8, and which was ever afterwards till after issue of these patents, acted upon by the Government, the claimant himself, and the people at large, as properly located.

Upon the facts disclosed in this case it seems hardly consistent with good faith on the part of the United States, and scarcely worthy a great nation, at this late date, and after these lands have passed into the hands of numerous citizens as purchasers, to seek to vacate the patents upon which their titles rest. To many of these lands, especially to the west of the range line mentioned, a second patent has already been issued by the United States, and some of the occupants, it is generally understood, as means of security from further annoyance, have acquired the title under both patents.

The reservation of the lands by which they were taken out of the railroad grant is not made in express terms by the statute itself, but it is worked out by construction from implications as to the policy of the Government, drawn from other statutes relating to other objects, containing express reservations as to those particular objects, which to my mind are not very apparent, and are wholly unsatisfactory, and which did not command the assent of all the Justices of the Supreme Court who sat in the case. Down to the decision in Newhall *vs.* Sanger, the United States courts for the district of California, and the supreme court of the State—and they may be reasonably supposed to have been somewhat familiar with the condition of these matters—held the lands in question to be within the Congressional grant. (Sanger *vs.* Sargent, United States circuit court in pamphlet, decided in September, 1874, and other cases in that court; C. P. R. R. Co. *vs.* Yolland, 49 Cal., 439, and other cases.) So, also, some of the Justices of the United States Supreme Court itself, including the Justice from this circuit, took the same view; and the Executive Department of the National Government had early adopted and for many years prior thereto acted upon that hypothesis. Even under the decisions of the Supreme Court, had the withdrawal for the railroad occurred two weeks later, the Congressional grant, under the law as it is, would have taken effect upon these lands. (Ryan *vs.* C. P. R. R. Co., 5 Saw., 261, affirmed; 99 U. S., 382.) Yet the only difference in the condition of the lands, and the laws, as they were on the 12th and 14th of February is, that on the intermediate day, the baleful shadow of an overhanging fraud has been floated away by a final rejection of the Moquelamos grant. On the 12th of February these lands *were not*, and on the 14th they *were* "*public lands*," within the meaning of the act of Congress. Yet there had been no change in the title in the mean time. The rejection of the fraudulent claim only determined judicially what the title was. It simply adjudged that the claim was not valid, and, consequently, that the lands claimed then were, and that they always had been, a part of the public domain. There was no reservation for any other purpose than to ascertain whether they belonged to the United States or to private parties, and there was no necessity for a reservation for that purpose. Had the claim been confirmed, it would have taken sufficient land to satisfy the grant, whether reserved or not, as it would then have been adjudged to belong to the grantee and not the United States. The act

Congress only granted, and only purported to grant, lands that belonged to the United States, not those owned by private parties.

These observations are not made by way of criticism upon, or to question the propriety of, the decision of the Supreme Court, to which I yield implicit obedience, but to point the suggestions made respecting the consideration due from the Government to the parties holding titles under the patents now in question.

Accepting the decision of the Supreme Court as correct, still considering these facts, and the action of the Government itself upon the opposite construction for a long term of years—more than twenty years—the people who purchased are excusable, if they supposed these patents carried a good title. They ought, certainly, to be entitled to some consideration at the hands of the Government. And even as to the lands west of the said range line, the Government, as well as the courts, State and National, from the date of the rejection of the Moquelamos grant, till the case of Newhall *vs.* Sanger—a period of ten years—took the view and acted upon it, that the odd sections were embraced in the railroad grant; otherwise there would have been no occasion for this, or other suits, to vacate the patents issued in pursuance of that view.

The controversy, it will therefore be seen, involves two bodies of land the legal status of the title to which may be different.

(1.) That portion of the Moquelamos grant lying west of the division line between ranges 7 and 8 east, Mount Diablo meridian (if it be conceded that the exterior boundaries of the grant extended east of that line). This body contains about 90,000 acres.

(2.) A body of land bounded by the Moquelamos River on the north, the Calaveras River on the south, and extending from the range line dividing ranges 7 and 8 east indefinitely eastward to the rolling lands or to the foot-hills of the Sierra Nevada Mountains, or, if the latest suggestion of the Commissioner of the General Land Office is adopted, to the crest of the Sierra Nevadas.

The said suit of The United States *vs.* The Central Pacific Railroad Company was instituted January 27, 1880, in the circuit court of the United States for the district of California to cancel the patents issued to the Western Pacific Railroad Company for 14,175.55 acres of land, of which 6,175.33 acres were within the reservation made by the surveyor-general of California for the Moquelamos claim and 8,000.22 acres were east of the division line between the ranges 7 and 8 east, the eastern boundary of said reservation.

Notwithstanding, in a letter dated February 6, 1878, the attorney of the Central Pacific Railroad Company and of the Western Pacific Railroad Company had informed the then Commissioner of the General Land Office that the said 6,175.33 acres falling within said reservation had then long since been sold and conveyed by the company, and an examination of the records of deeds in the counties of California where the lands are situated would have shown that neither the Central Pacific Railroad Company nor the Western Pacific Railroad Company, at the time of bringing the suit, *had any interest in the lands*, that suit was commenced against the Central Pacific Railroad Company alone; and even after an answer had been filed by the company in which it was alleged that all the lands in controversy in the suit had been conveyed by the company before the filing of the bill to bona fide purchasers, and after testimony had been taken in the suit establishing that allegation, and it had been also shown that a very large portion, if not all, of the lands had been also conveyed in small parcels by the grantees of the company to various parties, was allowed to go to a final hearing and decree without the then owners of the lands being made parties, and the bill was dismissed for want of necessary parties.

The dismissal of the bill for want of necessary parties was inevitable, and ought to have been foreseen before the suit was brought.

Attached hereto are copies of two letters, dated respectively January

26, 1880, and January 28, 1880 (marked Exhibits C and D), from the United States attorney for the district of California, from which it appears that the fact that the lands had been sold by the railroad company was known to the United States attorney and to the Attorney-General. The bringing of the suit and permitting it to go to final decree under the circumstances hardly deserves to be called an experiment.

There is another question involved in this case which deserves some consideration.

It is contended by the attorneys for the parties who claim the lands in controversy under the railroad company, notwithstanding the decision in the case of Newhall *v.* Sanger (92 U. S. Repts., 761), that the lands in controversy were vacant public lands at and before the definite location of the line of the road of the Western Pacific Railroad opposite to them, and that the grant to the company took effect upon all the odd-numbered sections within the limits of the grant not reserved or disposed of *at the time of such definite location*, and therefore the title of the lands in question passed to the company under the grant.

As has been before stated, the Moquelamos claim was finally rejected by the Supreme Court February 13, 1865.

In the table showing the time when the various railroad rights attached to lands granted, &c., at page 181 of Commissioner McFarland's report for 1881, it is stated that as to the Western Pacific Railroad Company the grant attached for 20 miles northward from San José, October 3, 1866; and from that point to Sacramento, at the time of the survey in the field, which was between January 28 and December 15, 1868.

It is also claimed that certain reports and affidavits of the chief engineer of the company show that the precise date of the final location of the road, though townships 2, 3, and 4, nearly opposite the land in controversy, was in April and May, 1868.

In answer to a letter addressed to the honorable Secretary of the Interior, requesting, among other things, information as to the date of the final location of the road opposite these lands, the Secretary transmitted to the committee the following letter from the Acting Commissioner of the General Land Office to himself:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
*Washington, D. C., January* 6, 1885.

SIR: I am in receipt, through reference by the Assistant Secretary, on the 24th ultimo, for report of a letter dated the 22d ultimo, from Hon. J. N. Dolph, chairman of a subcommittee of the Senate Committee on Public Lands, inclosing a copy of House bill No. 100, for the relief of certain pre-emption and homestead settlers upon lands within the limits of the Moquelamos grant, and asking to be informed when the map of the preliminary location of the Western Pacific Railroad in the vicinity of said grant was filed and approved, when the lands were withdrawn, and when the map of final location was filed and approved.

In reply, I have the honor to report that on December 7, 1864, George C. Gorham, "agent of the Central Pacific Railroad Company and their assigns," filed in this office, pursuant to the seventh section of the act of July 1, 1862 (12 Stat., 489), and the fifth section of the act of July 2, 1864 (13 Stat., 356), a duly authenticated copy of a resolution of the board of directors of the Central Pacific Railroad Company, adopted October 4, 1864, designating the general route of the western division of said company's railroad from Sacramento to San Francisco, Cal., and a map of the same.

The copy of the resolution and the map were submitted to the Secretary of the Interior December 9, 1864, for his instructions as to the withdrawal of the public land along the line of the road.

By letter dated December 14, 1864, the Secretary returned the map and resolution to this office, with instructions to withdraw from pre-emption, sale, and location tl

odd-numbered sections on both sides and within 25 miles of the line of the road as indicated on the map.

By letters dated December 23, 1864, the local officers at Stockton and San Francisco, Cal., were furnished with diagrams showing the 25-mile limits of the grant in their respective districts, and instructed to withdraw from settlement and entry the vacant lands in the odd-numbered sections within those limits.

The order of withdrawal was received at Stockton (the Moquelamos grant being situated in that district) January 31, 1865.

The Central Pacific Railroad Company assigned its right to construct the road from Sacramento to San José to the Western Pacific Railroad Company, which assignment was ratified by act of Congress approved March 3, 1865 (13 Stat., 504).

On October 27, 1869, the President accepted a section of 63 miles of the Western Pacific Railroad as constructed from a point in township 5 north, range 6 east to a point in section 31, township 2 south, range 3 east, Mount Diablo meridian, being the section of road opposite the Moquelamos grant.

A map of said section was filed in the Department, with the report of the commissioners who examined the same, and is now on file in this office. The date of its receipt in this office does not appear of record.

On February 1, 1870, the Secretary of the Interior accepted and referred to this office, as the basis for the adjustment of the land grant, a map showing the line of said road as located and constructed between San José and the junction with the Central Pacific Railroad near Sacramento. When and by whom said map was filed in the Department is not shown by the records of this office.

By letters dated May 6, 1870, diagrams showing the 20-mile limits of the railroad grant were transmitted to the local officers at San Francisco, Marysville, Sacramento, and Stockton, with instructions to withdraw the odd-numbered sections within such limits not already withdrawn and to restore to settlement and entry such of the odd-numbered sections within the 25-mile limits of the withdrawal of 1864 as were outside the 20-mile limits of the withdrawal thereby ordered.

Referring especially to the lands within the limits of the Moquelamos grant, I have to state that there are no lands within the limits of said grant and the 20-mile limits of the railroad withdrawal of 1870 which were not also within the limits of the withdrawal of 1864.

On February 13, 1873, E. H. Miller, jr., secretary of the Central Pacific Railroad Company, successor, by consolidation, to the Western Pacific Railroad Company, transmitted to this office a map (received February 27, 1873) showing the line of the Western Pacific Railroad from San José to a junction with the Central Pacific near Sacramento.

The line of the road as indicated upon said map is identical with the line shown upon the map filed in 1870, the only difference between the two maps being that the map of 1873 shows the dates on which the line was surveyed and marked upon the ground.

Mr. Dolph's letter and the bill are herewith returned.

Very respectfully, your obedient servant,

L. HARRISON,
*Acting Commissioner.*

Hon. H. M. TELLER,
*Secretary of the Interior.*

If the road was definitely located in 1868, it was definitely located long after the Moquelamos grant was rejected by the Supreme Court, and at a time when the lands were public lands, subject to sale and grant. This question of fact being settled there would still remain a question of law upon which the right of the company to the lands in question would depend. That is, whether the lands reserved at the date of the act, or at the time of the preliminary or general location of the road and withdrawal of the odd sections from market, or at the date when the line of the road was definitely located, were excepted from the operation of the grant. The language of the act is:

> That there be, and is hereby, granted * * * alternate sections of the public land designated by odd numbers * * * not sold, reserved, or otherwise disposed of by the United States, and to which pre-emption or homestead claims may not have attached *at the time the line of the road is definitely fixed.*

It is settled that the grant in question and all similar grants are grants *in presenti*, but it is contended that this grant was a *present grant* of all lands *not reserved at the date of the definite location of the line of*

company to divers persons, and, at all events, with constructive noti thereof, settled upon the lands patented to the company, those lyi east of the reservation made by the surveyor-general in 1864, as well those within such reservation, and made application to enter the sa at the local land office, but the officers of the local land office refused receive and file their applications, and upon appeal to the Commission of the General Land Office, and from him to the Secretary of the Int rior, the matter was brought before the Secretary of the Interior, who d cided, January 30, 1879, that the decision of the Supreme Court avoid the patent of the railroad company only as to the land involved in th litigation; and that the patents were not void, but voidable only as the residue of the lands within the Mexican grant.

He might also have said that it did not necessarily follow that a other patents for such lands were void, as every suit must be decid upon the facts in that particular suit, and a different state of facts a pearing in another case might require a different conclusion as to the v lidity of the patents.

After citing several decisions to sustain the proposition, he furth held that (we quote from the decision)—

> Under the law as construed by the Supreme Court, in the cases before cited, t Department has no jurisdiction or control over the lands covered by the uncance patents for lands within the limits of the Moquelamos grant, and no filings or ent of the same can be received until such patents have been canceled by the courts.

This decision, we believe, has been, since it was rendered, general followed by the Department of the Interior in relation to this grant a in all other cases, and appears to be not only sound, legally, but prop as a rule of practice, and well calculated to prevent confusion and m takes in the sales of public lands and consequent claims upon the Go ernment for indemnity on account of failure of title.

The Secretary also held that it was the duty of the Government cause proceedings to be instituted to annul the patents impropei issued to the railroad company for lands within the boundaries of t grant, and, with a view of determining what particular tracts fell with the class mentioned, to enable a suit to be brought, and of furnishi evidence for the Government upon the trial of the suit, ordered a surv of the exterior boundaries of the rejected grant to be made.

The honorable Secretary of the Interior, going beyond the case l fore him, which was an appeal from the decision "against the right applicant to file declaratory statements for certain tracts of land," h that the surveyor-general of California had improperly extended pub surveys over the limits of the Moquelamos grant before the rejection the claim. Mr. Schurz, it is claimed, could not have been informed to the facts and circumstances under which the surveyor-general's orc of September 21, 1864, was made, and must have overlooked the p vision for the survey of unconfirmed private land claims in the act August 31, 1852, and the instructions of the General Land Office un said act.

In pursuance of the order of Secretary Schurz, made in connection w his decision in the case of Clayton, Beck *et al. v.* The Central Pacific R road Company, and under the direction of the Commissioner of the G eral Land Office, the surveyor-general of California caused a survey of eastern boundary of the "rejected Moquelamos rancho," to be m for the purpose, as declared by the Commissioner, of "identifying claimed limits of said rancho." The survey was made by Deputy S veyor Bond, and the honorable Commissioner of the General Land fice reported the same to the honorable Secretary of the Interior

having been "duly executed and the field notes with connected diagram as having been transmitted to his office."

And the Commissioner, upon the theory that the limits of the Moquelamos claim had thereby been definitely ascertained, submitted with his report a supplemental list of lands which had been patented to the Western Pacific Railroad Company, now found to be within the "extended" limits of the Moquelamos rancho. The amount of land included in this supplemental list was 8,000.22 acres. Copies of the Commissioner's letter, of the supplemental list of lands accompanying the same, and of the diagram of the survey, are herewith submitted, and are marked Exhibits K, L, M.

It will appear from the foregoing that the Bond survey was approved by the Department, accepted as ascertaining the exterior boundaries of the Moquelamos claim, and was entitled to all the consideration that any survey under the direction or by the authority of the Interior Department a rejected private land claim is entitled to.

It extended the eastern boundary of the Moquelamos claim far east of the eastern boundary of the reservation made for said grant by the surveyor-general of California in 1864.

This survey does not appear to have been satisfactory to settlers upon lands still east of the eastern boundary of the claim as fixed by it, and on October 20, 1881, still another survey was directed to be made. Such survey was made by Deputy Surveyor A. W. von Schmidt, in February, 1882, and the plat, with the field notes, duly returned to the General Land Office. The survey by von Schmidt located the east line of the exterior boundary of the Moquelamos grant still east of the line as located by Deputy Surveyor Bond. But this survey was not satisfactory to settlers upon lands lying east of the eastern boundary of the claim as fixed by it, and they filed a prot est in the Interior Department against the approval of the Von Schmidt survey, and the matter having been referred by the Secretary of the Interior to the Commissioner of the General Land Office for report, the Commissioner, by letter dated May 8, 1882, a copy of which is made Exhibit N hereof, held that the eastern boundary of the Moquelamos claim was the ridge of the mountains, and recommended a new survey. The cost of the Bond and Von Schmidt surveys was paid for out of the general appropriations for surveying the public lands.

Your committee are unable to find any authority for the survey of the exterior boundaries of the Moquelamos claim by Deputy Surveyors Bond and Von Schmidt under the direction of the Interior Department, which would give the surveys so made an official character. The claim had been rejected by the Supreme Court of the United States; the lands had been disposed of by the Government, and, under the rulings of the Department, even if patents had been erroneously issued, jurisdiction of the Department over the lands had been lost. There appears to be no provision of law authorizing an official survey of rejected private land claims in California. Such surveys have no official character, are not conclusive upon any one having an interest in the lands, and the only purpose they serve is to furnish information to the Department. As evidence it would seem that a survey by a competent surveyor, made at the request of the United States district attorney, or of the defendants in a suit brought by the United States to cancel the patents, or made at the request of either party to a suit to determine the question of title between parties claiming under senior and junior United States patents, would be of equal authority and value, or even greater value if made by a surveyor possessing greater skill or entitled to greater

credit, and the same thing may be affirmed concerning the survey which might be made under the provisions of the bill under consideration should it become a law. If the intention is to make such a survey conclusive as to the boundaries of the claim as against parties claiming the lands, that would certainly be beyond the power of Congress. Since the rejection of the Moquelamos claim by the Supreme Court, and after rights of private parties have attached to the lands within the limits of the grant its boundaries can no longer be determined by an official survey, or by an act of Congress. The question as to where the exterior boundary of the claim is, is a judicial question, a mixed question of law and fact, which the courts must decide whenever it arises.

It involves a translation and construction of the original instrument by which the grant was made in the light of the topography of the country, the circumstances under which the grant was made and such other facts as are usually resorted to by courts in construing such instruments.

The purpose which such a survey is intended to serve is probably to fix the limits within which the settlers under the provisions of the bill are to be allowed to enter lands under the pre-emption and homestead laws.

The controversy between the claimants under the railroad company and settlers under the pre-emption and homestead laws is not confined to the Departments and the courts. The following quotations from letters on file among the papers in the case will show the views of parties interested on different sides of the contest, and furnish information as to the state of feeling which exists concerning the controversy about the lands in which Congress is asked to interfere for the benefit of one class of claimants. For obvious reasons we omit the names of parties:

STOCKTON, CAL., *June* 16, 1884.

DEAR SIR: Permit me to trespass upon your time briefly to call your attention to an attempted piece of legislation which in its practical effect, if passed by the Senate, would cause me and others considerable annoyance, and possibly the loss of a large share of the little I have of this world's goods. I refer to the bill from the House relating to the Moquelamos grant. A year or so ago, having, by unexpected good fortune, accumulated a little money, I bought 240 acres of land at $15 from a man who had a deed from another man who had a deed from the Central, or Western Pacific Railroad, which had a patent. Being advised by a neighbor friend who had bought part of the same section and finding the title all right, I bought without any suspicion that my rights would ever be assailed. I put in a crop of barley, and while it was growing a man came upon it and built a cabin and claimed a right to pre-empt it. He has, I have since learned, tried to file his declaratory statement under the pre-emption law; was refused by the local office, and has appealed to the Commissioner of the General Land Office and the Secretary of the Interior, and his application denied. Since buying I learn that a league of men have been banded together to defeat all titles similar to mine, and their actions have been characterized by murder, assaults, and trespasses, accounts of which have filled the local papers.

It now seems that Mr. Budd, member of the House from the district, * * * * has succeeded in getting through the House a bill authorizing the survey of the fraudulently claimed Moquelamos grant, with the evident intent of extending the lines of the land years ago withdrawn from settlement on account of claimed grant.

Many years ago, I now learn, one Pico laid claim to eleven leagues of land, and by his attorney defined the boundaries of his claim, and the United States Department withdrew land within the limits claimed by Pico, and the exterior boundaries were surveyed by the United States, and all lands outside of the map were thrown open to sale and private entry. The land I bought, it seems, is not within the limits claimed by Pico, but has always been subject to private entry until the railroad grant, when that which is now my land was included in that covered by the railroad grant, and was resurveyed for the railroad, and the patent subsequently issued to the railroad company. The railroad company went on selling land, and the Government went on, as it had for years before, granting pre-emption and homestead rights, and continues to do so to all land not included to the railroad. Quite recently these squatters, becoming impressed with the idea that these lands were *worth having*, they thrust themselves into the premises of the various purchasers

n the railroad, and say, "Your title is not good, and we propose to take it," and re is not one single instance in which one of this lawless crowd had a residence all this land until after the railroad grant and the subsequent purchase by private rties from the railroad and its various purchasers. In short, there is not one single se where the would-be pre-emptor has not squatted upon land bought and paid for r private parties. I fail to see any —— in a man coming on to my land, for which have paid my money, and for which he is not out a cent, and trying to take it from e. If I was a wealthy corporation, or a large landholder, perhaps the communistic octrine of a division might do, but I haven't yet got my share on a communistic ivide. I will say this as to those squatters, that as a class they are a bad set, hich the criminal records of this country will show. At first they succeeded in aining sympathy, as they classed themselves with the Mussle Slough settlers, hose homes had been taken by the Southern Pacific Railroad Company, and ho were entitled to sympathy, but these fellows never thought of going for is land till private parties had bought it in small quantities, like myself. This ill attempts to upset all titles, whether based on railroad patents or pre-emption. or if the lines of the claimed grant can be extended, as now desired, to the top of e Sierra Nevadas, it attempts the destruction of all titles in that locality, which ave been supposed to be all right for thirty years. * * * It would even be dif-rent if I bought land to which any one was making claim. But no one in the world as on it, or claiming, but a man coolly comes after I have bought and sold and laims to pre-empt because I did not live on it in person. If he had been there when bought it might be claimed that I was trying to get his home away, but I was occu-ying when he came. I respectfully submit that there can be no justice in permit-ing him to take my land, when he has not expended a cent on it except to put up is cabin and injure my barley. If the Government has mistakenly issued patent, ould it not be more just to confirm my title, which depends on the patent, than to llow this trespasser on my property to take it away from me because he is living on t? My case is that of many others. * * *

You would appreciate my indigation more fully if you could know the character of hese squatters. The gentleman (?) who has jumped my land has been arrested for rand larceny, and only escaped because the grand jury were induced not to file a ill for the reason that his mind was not always right. The fact is well known, how-ver. * * *

My personal interest in this matter must be my excuse for this lengthy epistle. Had I known the facts and trouble that would arise I, of course, would not have ought, but now I have bought I feel that it would be the grossest injustice for th Government to attempt to defeat the title I relied on when I bought.

I remain, yours, truly,

—— ——.

STOCKTON, CAL., *June* 13, 1884.

—— ——,

*Washington, D. C.*

DEAR SIR: A bill for the relief of the Moquelamos grant settlers having passed the House I now hope and pray that you will give the matter your earnest attention and powerful aid. * * *

This is a very important bill and one that virtually affects the interest of every settler on the grant. This is not an act that professes to legislate away any man's right or title to his land. This act simply places us on an equal footing with our opponents, and is intended to give us an equal standing with them in court. Give us our patent, and then the courts will decide which patent is the best. The settlers here have a large amount of grain sowed this year, and if the railroad com-pany and its grantees undertake to interfere with the harvesting of this grain, I fear there will be serious trouble, and the railroad grantees, and flunkies have already made preparation to interfere in this matter. There are about 800 able-bodied men banded together for self-protection, and if a battle is once commenced, if blood is once shed, if one settler is killed, then all the settlers, and all their friends will take a hand in the fight. You know what public sentiment is on this subject to-day, and you know that there is no lack of those that would urge on a riot simply for the fun of the thing. From 2,500 to 3,500 men could be easily raised in this immediate vicin-ity that would delight in an open defiance of the railroad company, even though such an act necessarily involved them in a more or less open disregard of the constituted authorities of the State. The people of California are sleeping over an active vol-cano that is at any time liable to break forth in active eruption, and make her fair fields a desert and her thriving plantations a howling wilderness. It was averted last fall only by a miracle. For God's sake, put your shoulder to the wheel and pass the bill. It is both just and judicious to do so.

Yours, truly,

—— ——.

The contest is not between the settlers under the pre-emption and homestead laws and the Central Pacific Railroad, or the Western Pacific Railroad, but between citizens who have purchased the lands after the patents to the railroad companies had been issued, and who have paid a valuable consideration for them, on the one side, and other citizens who, supposing the railroad title could be overthrown, have undertaken to enter the lands under the laws of the United States, authorizing the disposal of the public lands.

Upon the 7th of December last the honorable Secretary of the Interior addressed a letter to the honorable Attorney-General of the United States requesting him to file a new bill against the company and the grantees of the company and their assigns, a copy of which letter is hereto attached and marked Exhibit O.

On the 23d of January, 1884, Acting Attorney-General Phillips addressed a letter to the United States attorney for the district of California, directing him, at as early a date as practicable, to file a new bill against the railroad company, its grantees and assigns, a copy of which letter is submitted herewith and marked Exhibit P.

In answer to an inquiry by the chairman of the subcommittee as to the status of said suit, the committee received the following communication:

DEPARTMENT OF JUSTICE,
*Washington, December 27, 1884.*

SIR: I have the honor to acknowledge the receipt of your letter of the 22d instant relative to the proceedings in respect to the Moquelamos grant in California; also the inclosed bill (H. R. 100)

In reply I have to say that I believe the second suit has been begun against the parties as requested by the Secretary of the Interior in his letter to me of December 7, 1883, when he wrote:

"I have the honor, therefore, to request that you will, at as early a day as practicable, file a new bill against the company for vacating its patents, with such other persons as defendants, that all whose rights are legally involved may be bound by the decision of the court."

The district attorney for California was instructed to bring the suit as requested and has, I know, done some work preliminary to filing the bill. But as I have not been officially notified by him of the commencement of the suit, I will refer a copy of your letter to him with directions that he report the fact and the present condition of the case. I will answer your letter more fully when I get his reply.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
*Attorney-General.*

Hon. J. N. DOLPH,
*United States Senate, Washington, D. C.*

It will thus be seen that the question of the validity of the patent issued to the railroad company promises to be speedily adjudicated in the proper court. The questions of law and fact upon which the validity of the patents depend being involved in the title of all persons deraigning their title to the lands in question from the railroad company, your committee think all such persons may be made defendant in one suit, in which the whole question of title to all the lands so patented may be determined.

There does not appear to be any good reason why, if it is thought best to restrain the prosecution of actions in ejectment against pre-emption and homestead claimants in the United States circuit court by parties claiming under the railroad patents, an injunction cannot be issued in such suit to restrain proceedings at law. The case is certainly of sufficient importance to require that it should be heard at an early day in the United States circuit court, and to warrant it being, at the reques

the Attorney-General, advanced upon the docket of the Supreme Court after it is appealed to that court.

The number of actions which can be brought in the circuit court of the United States on account of limited jurisdiction of the court as to parties cannot be great, and it seems probable that if the patents issued to the railroad company for any lands from which a claimant under the homestead or pre-emption laws has been ejected in such an action should be canceled, the claimant would be entitled to a preference to purchase such lands under such laws, notwithstanding such ejectment.

It will be seen that it is a serious question whether or not the lands concerning which Congress is asked to legislate are public or private lands—a question which is about to be submitted to a court for determination. In advance of such determination Congress is asked to interfere and cause the lands to be treated by the Interior Department as public lands and disposed of, so far as the Department is concerned, under the pre-emption and homestead laws.

It is well to state in passing that it is admitted by all parties that as to the 6,175.33 acres lying west of the line between ranges 7 and 8 east there is no longer any controversy, the present claimants of the lands having secured both the railroad title and title from the United States. If, as to the lands patented to the company which lie east of that line, the patents are held void and canceled, the pre-emption and homestead claimants will probably be entitled to the land; and in such a case, if any class of persons require legislation for the protection of their interests, it would appear to be purchasers from the railroad company upon the faith of the United States patents.

Your committee, after a careful consideration of the case, is of the opinion that there are so many questions of law and fact involved in the title to the lands to be affected by this bill that it is questionable whether any act of Congress would prove beneficial in either preventing litigation or securing an early or equitable settlement of the controversy concerning them, and that the contest between the various claimants should be permitted to take its course in the courts until such time as Congress can act, if action by Congress should be found necessary, upon the settled facts and law of the case.

Your committee therefore reports the bill back to the Senate, and recommends that it do not pass.

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## EXHIBIT A.

[No. 357. Case No. 357. Andreas Pico, "Moquelamos." B. Translation of Grant Doc. H. I. T., annexed to the deposition of N. A. Den.]

Pio Pico, Constitutional Governor of the Department of California:

Inasmuch as Andreas Pico, a Mexican by birth, has solicited for his personal benefit and that of his family the land known by the name of "Moquelamos," to the extent of eleven square leagues; having first made the necessary enquiries and investigations according to the requisitions of the laws and regulations, using the faculties in me vested, in the name of the Mexican nation, I have now conceded the land mentioned, declaring it his property by these presents, subject to the approval of the Most Excellent Departmental Assembly, and under the following conditions:

1st. He will be owner in fee of eleven square leagues on the river "Moquelamos," bordering upon the north upon the southern shore of said river, on the east upon the adjacent ridge of mountains, on the south upon the land of Mr. Guluac, and on the west upon the estuaries of the shore.

2d. The land which is hereby ceded he will keep free from all obligation, mortgage, and every other incumbrance, and he will not convey it in mortmain.

3d. He will apply to the proper justice to give him juridical possession, by virtue of this title, who will designate the boundaries, placing the usual landmarks.

4th. He may inclose it without prejudice to the ways, roads, and servitu will enjoy it freely and exclusively, appropriating it to such culture and us best suit him, but he must not sell it till four years after he shall have obta ridical possession.

4th. If he shall violate these conditions he will lose his right to the la it will be denouncable by another, who may want and ask for the land.

Wherefore I order that this present title being held as firm and valid, an it be made in the corresponding book and that it be given for the party for h ity and other ends.

Given in the city of Los Angeles, the capital of the department of the Cal on common paper, for want of stamped, on the sixth day of June, in the ye teen hundred and forty-six.

PIO RICO,
JOSE MATIAS MOR

This superior despatch has been entered in the corresponding book.

MOR

I certify the foregoing to be a true and correct translation.

GEO. FISHE

Filed in office September 22d, 1852.

(Signed) GEO. FISHE

## EXHIBIT C.

SAN FRANCISCO, *January* 26

SIR: I have the honor to acknowledge receipt of your communication of the cember last, inclosing a letter from Mr. William J. Johnston, an attorney of y n relati on to the suit which you instructed me to commence in February a last, to set aside certain patents for lands illegally held by the Western Paci road Company, within the limits of the exterior boundaries of the Mexica "Moquelamos," &c., &c.

You direct me to forward as soon as possible to your Department a repor proceedings had in the case. In reply, I beg leave to report that at the tim receipt of your instructions to commence the suit in question, I was informe E. S. Pillsbury, an attorney of this city, who represents a large number of claiming title as pre-emptors to lands embraced within the limits of the Moq grant, that the railroad company had conveyed various pieces of land covere patents to different persons, who would have to be made parties defendant suit. I had not then a map by which I could be governed in determining the aries of the grant, and without which I could not prudently commence the sui sequently a map was approved by the Department of the Interior, but it did n me till some time in July last. This circumstance is one of the causes which layed the suit. Mr. Pillsbury, who is also of the opinion that a proper dec not be entered in the case unless those who have purchased such lands from road company are made parties at the time of commencing the suit, req delay until an abstract of the title could be procured to ascertain the nam purchasers from the railroad company, and that an abstract would be furn me at the expense of his clients as soon as it was completed.

As it would have been useless to proceed any further in the matter witho an abstract, and as I was not authorized to put the Government to any ex having a search made of the records, I deferred to Mr. Pillsbury's wishes, cluded that it was for the best interests of the United States to delay the pro until I could obtain said abstract.

I felt some reluctance, too, in hastily proceeding in the matter in conside the large interests involved, and because I desired to become thoroughly famil the requirements of the equity practice in suits of this kind, where the decre necessarily affect a large number of innocent purchasers.

Since the receipt of your communication of the 29th December last, Mr. informs me that his clients declined to enter into any expense, and will not me with the said abstract.

From the foregoing the honorable Attorney-General will observe that the taking an earlier action in the matter has been unavoidable on my part.

The suit will be instituted against the railroad company alone, as soon as I can complete the complaint, which is now being engrossed.

Very respectfully, your obedient servant,

PHILIP TEARE,
*United States Attorney.*

Hon. CHARLES DEVENS,
*Attorney-General.*

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## EXHIBIT D.

SAN FRANCISCO, *January* 28, 1880.

SIR: I beg to inform you that the bill of complaint against the Central Pacific Railroad Company, to cancel certain patents embracing lands within the limits of the exterior boundaries of the Mexican grant Moquelamos, was filed yesterday in our United States circuit court.

After a careful consideration of this case and the principles of equity relative to proceedings to cancel patents to lands, I have grave doubts as to my ability to obtain a proper decree in the suit, owing to the fact that a large number of persons holding title to portions of land covered by the patents under deeds of conveyance from the railroad company have not been made parties defendants to the suit. The reasons for my failure in making such persons defendants are fully stated in a communication which I had the honor to address to you on the 26th instant. Upon this important question there seems to be a difference of opinion among the leading attorneys of this city, the preponderating opinions being that all persons holding title from the railroad company should be made parties to the suit. If consistent, I would be pleased to obtain the Attorney-General's views upon this subject, in order that I may be governed in this and other cases.

Very respectfully, your obedient servant,

PHILIP TEARE,
*United States Attorney.*

Hon. CHARLES DEVENS,
*Attorney-General.*

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## EXHIBIT E.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
*January* 13, 1871.

SIR: Herewith I inclose two lists embracing tracts in the Stockton and San Francisco districts, California, that fall within the surveyed boundary limits of the "Moquelamos grant" and "Rancho San Ramon," and such were *inadvertently* patented to the Western Pacific Railroad Company April 9th, and 31st May, 1870.

It is held that the tracts thus described in said lists were *reserved* lands at the date of the railroad laws July 1st, 1862, and July 2d, 1864, and such should not have passed into patent.

I have to request of you, as attorney of the Western Pacific Railway Company, of California, that the tracts described in said lists and carried into patents Nos. 4 and 5, at the dates aforesaid, be relinquished by said Railway Company, and such relinquishment forwarded to this office at the earliest practicable period.

Very respectfully, your obedient servant,

JOS. S. WILSON,
*Commissioner.*

HENRY BEARD, Esq.,
*Attorney Western Pacific Railroad Company, Washington, D. C.*

## EXHIBIT F.

*List of tracts patented April 9th, 1870, Western Pacific Railway Company, of Cali under acts of July 1st, 1862, and July 2d, 1864, subsequently ascertained to fall the surveyed boundary of "Moquelamos grant."*

STOCKTON DISTRICT.

| Parts of sections. | Sec. | Twp. | Range. |
|---|---|---|---|
| W. fractional ½ | 1 | 2 N. | 6 E. |
| E. ½ NW. ¼ and N. ½ of SE. ¼ | 7 | 2 | 6 |
| Lots 3 and 4 and NW. ¼ of SW. ¼ | 21 | 2 | 6 |
| SW. ¼ | 9 | 3 | 6 |
| NE. ¼ | 11 | 3 | 6 |
| W. ½ | 13 | 3 | 6 |
| N. ½ of NE. ¼, SW. ¼ of NE. ¼, N. ½ NW. ¼, SW. ¼ of NW. ¼, NW. ¼ of SE. ¼, and NW. ¼ of SW ¼ | 17 | 3 | 6 |
| W. ½ of NW. ¼ | 21 | 3 | 6 |
| E. ½ of NW. ¼ | 23 | 3 | 6 |
| NE. ¼ of SE. ¼ | 27 | 3 | 6 |
| S. ½ of SE. ¼ | 29 | 3 | 6 |
| NW. ¼ of NW. ¼ | 33 | 3 | 6 |
| SE. ¼ | 35 | 3 | 6 |
| W. ½ of lots 1 and 2 of NW. ¼ | 5 | 2 | 7 |
| NW. ¼ of SE. ¼ | 7 | 2 | 7 |
| NW. ¼ | 25 | 2 | 7 |
| SE. ¼ | 3 | 3 | 7 |
| Lot 1 of NE. ¼ and SW ¼ of SE. ¼ | 5 | 3 | 7 |
| N. ½ of NE. ¼ and NW. fr'l ¼ | 7 | 3 | 7 |
| SW. ¼ | 11 | 3 | 7 |
| NW. ¼ and SE. ¼ | 13 | 3 | 7 |
| W. ½ of section and SE. ¼ | 17 | 3 | 7 |
| W. ½ of section and W. ½ of SE. ¼ | 21 | 3 | 7 |
| NE. ¼ and lot 1 of SW. ¼ | 31 | 3 | 7 |
| W. ½ of SW. ¼ | 35 | 3 | 7 |

*List of tracts patented May 31st, 1870, to Western Pacific Railway Company, of Cali under acts of July 1st, 1862. and July 2d, 1864, subsequently ascertained to fall wit exterior boundaries of survey of "Rancho San Ramon."*

SAN FRANCISCO DISTRICT.

| Parts of section. | Sec. | Twp. | Range. |
|---|---|---|---|
| Lot No. 1 | 5 | 1 S. | 1 W. |
| Lots Nos. 1, 2, 3, 4, 5, 6, 7, 8, and 9 | 7 | 1 | 1 |
| N. ½ of sec., SW. ¼ and W. ½ of SE. ¼ | 13 | 1 | 1 |
| Lots 1, 2, 5, 7, NE. ¼, N. ½ of SE. ¼ | 15 | 1 | 1 |
| Lots Nos. 2 and 3 | 17 | 1 | 1 |
| NW. ¼ and N. ½ of NE. ¼ | 23 | 1 | 1 |
| W. ½ | 25 | 1 | 1 |
| S. ½ of SE. ¼, and lots 8 and 9 | 31 | 1 | 1 |
| S. ½ | 35 | 1 | 1 |
| Lots 1, 2, 3, 4, 5, and SE. ¼ of NE. ¼ | 3 | 2 | 1 |
| Lots 1 and 2 of NE. ¼, SW. ¼ of NE. ¼, lot 3 of SE. ¼, W. ½ of SE ¼ and SE. ¼ of SE. ¼ | 5 | 2 | 1 |
| Lot in NW. ¼ | 9 | 2 | 1 |

## EXHIBIT G.

WASHINGTON, D. C., *January* 20, 1

SIR: I have to acknowledge the receipt of your letter of the 13th instant, inc schedules of lands in the Stockton and San Francisco land districts which yon have been patented to the Western Pacific Railroad Company, and of which yo request a relinquishment of title by the company to the United States.

A copy of your letter and list has to-day been forwarded to the land agent c company at San Francisco, but I have myself no record of the lands patented, a power to act in the premises, but would respectfully remark that at the tin patents were applied for by and issued to the company I had no knowledge o *undetermined* adverse claim to any of the lands included in the patents.

Indeed, I apprehend that eventually it will be ascertained that the tracts mentioned were properly included in the patents.

Very respectfully, your obedient servant,

HENRY BEARD,
*Attorney.*

Hon. JOS. S. WILSON,
*Commissioner of the General Land Office.*

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## EXHIBIT H.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
*Washington, D. C., January* 31, 1878.

SIR: On 9th April, 1870, patent No. 4 issued to the Western Pacific Railroad Company, embracing, among other lands, the tracts enumerated in the accompanying list.

The lands set forth in that list are located within the limits of the Moquelamos grant claim, which was rejected by the United States Supreme Court February 13, 1865, and were, by the direction of the surveyor-general of California, in a letter to the register of the United States land office at Stockton, Cal., September 21, 1864, specifically reserved from disposition until the final determination of the boundaries of that claim.

The issue of the patent therefor to your company was an error, soon discovered, and upon its discovery, a list embracing part of the lands was prepared, which was transmitted you January 13, 1871, with statement of facts and request for relinquishment.

Beyond acknowledgment of receipt of the communication, no attention has been paid by your company to that request, and the Supreme Court of the United States having decided, in the case of Newhall *vs.* Sanger, that the claim of the company to lands within the exterior limits of the Moquelamos grant claim is invalid, I now, under direction of the honorable Secretary of the Interior, make formal demand of the Western Pacific Railroad Company, its successors and assigns, for a reconveyance to the United States of the land enumerated in the accompanying list, in quantity 6,175.33 acres, which were, for the reasons above given, erroneously patented to the company.

Respectfully,

J. A. WILLIAMSON,
*Commissioner.*

HENRY BEARD, Esq.,
*Attorney Western Pacific Railroad Company, Washington, D. C.*

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## EXHIBIT I.

*List of lands reserved for adjustment of "Moquelamos" grant claim, erroneously patented to Western Pacific Railroad Company, April* 9, 1870.

[North and east of Mount Diablo base and meridian, California.]

| Parts of section. | Section. | Twp. | Range. | Acres. |
|---|---|---|---|---|
| E. ½ | 23 | 4 | 5 | 320.00 |
| ALL SW. ¼ | 23 | 4 | 5 | 80.00 |
| ALL | 25 | 4 | 5 | 640.00 |
| N. ½ | 35 | 4 | 5 | 160.00 |
| W. ½ NW. ¼ | 35 | 4 | 5 | 80.00 |
| E. ½ | 1 | 2 | 6 | 321.92 |
| W. ½ NW. ¼ and N. ½ SE. ¼ | 7 | 2 | 6 | 160.00 |
| Lots 3 and 4 and NW. ¼ SW. ¼ | 21 | 2 | 6 | 89.71 |
| W. ½ | 9 | 3 | 6 | 160.00 |
| E. ½ | 11 | 3 | 6 | 160.00 |
| W. ½ | 13 | 3 | 6 | 320.00 |
| E. ½ NE. ¼, SW. ¼ NE. ¼, N. ½ NW. ¼ W. ¼ NW. ¼, NW. ¼ SE. ¼, and NW. ¼ SW. ¼ | 17 | 3 | 6 | 320.00 |
| W. ½ NW. ¼ | 21 | 3 | 6 | 80.00 |
| E. ½ NW. ¼ | 23 | 3 | 6 | 80.00 |
| NE. ¼ SE. ¼ | 27 | 3 | 6 | 40.00 |

*List of lands reserved for adjustment of "Moquelamos" grant claim, &c.*—Continued.

| Parts of section. | Section. | Twp. | Range. | Acres. |
|---|---|---|---|---|
| S. ½ SE. ¼ | 29 | 3 | 6 | 80.00 |
| NW. ¼ NW. ¼ | 33 | 3 | 6 | 40.00 |
| SE. ¼ | 35 | 3 | 6 | 160.00 |
| SW. ¼ fractional | 19 | 4 | 6 | 150.10 |
| NE. ¼ | 29 | 4 | 6 | 160.00 |
| W. ½ of lots 1 and 2 of NW. ¼ | 5 | 2 | 7 | 80.20 |
| NW. ¼ SE. ¼ | 7 | 2 | 7 | 40.00 |
| NW. ¼ | 25 | 2 | 7 | 160.00 |
| SE. ¼ | 3 | 3 | 7 | 160.00 |
| Lot 1 of NE. ¼ and SW. ¼ SE. ¼ | 5 | 3 | 7 | 52.11 |
| N. ½ NE. ¼ and fractional NW. ¼ | 7 | 3 | 7 | 222.1[illegible] |
| SW. ¼ | 11 | 3 | 7 | 160.0[illegible] |
| NW. ¼ and SE. ¼ | 13 | 3 | 7 | 320.0[illegible] |
| W. ½ and SE. ¼ | 17 | 3 | 7 | 480.0[illegible] |
| W. ½ and W. SE. ¼ | 21 | 3 | 7 | 400.0[illegible] |
| NE. ¼ and lot 1 of SW. ¼ | 31 | 3 | 7 | 240.0[illegible] |
| W. ½ SW. ¼ | 35 | 3 | 7 | 80.0[illegible] |
| Lot 3 and S. ½ SE. ¼ | 33 | 4 | 7 | 89.[illegible] |
| N. ½ SE. ¼ | 35 | 4 | 7 | 80.0[illegible] |
| | | | | 6,175.[illegible] |

## EXHIBIT J.

WASHINGTON, D. C., *February* 6, 1878.

SIR: I have the honor to acknowledge the receipt of your letter of the 31st ultimo, in which it is stated that the inclusion of lands described in the schedule annexed to your letter in the patent of April 9, 1870, to the Western Pacific Railroad Company of California, was erroneous, and a formal demand is made upon the company through me, as its attorney, for a reconveyance of said lands ($6,175\frac{33}{100}$ acres) to the United States.

Your letter will be transmitted to the officers of the company at San Francisco, with the request that their answer be communicated to you.

So far as I am at present advised, the company does not concede that there was any error in the award of these lands, and the issuing of the patent to the company in 1870, by the direct action and orders of the President of the United States; and as the lands have long since been sold and conveyed by the company, it would be impossible for it to reconvey the title to the United States now, and improper for it to do any act to impair the standing of a title once deliberately approved by your office and the Secretary of the Interior, and now held by others.

Very respectfully,

HENRY BEARD,
*Attorney for Central Pacific Railroad Company,*
*Successor, &c., of Western Pacific Railroad Company.*

Hon. J. A. WILLIAMSON,
*Commissioner General Land Office.*

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## EXHIBIT K.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
*Washington, D. C., June* 30, 1879.

Hon. C. SCHURZ,
*Secretary of the Interior:*

SIR: I have the honor to advise you that in accordance with your directions of January 30 last, communicated in your decision in the case of Clayton Beck *et al. v.* the Central Pacific Railroad Company, this office, under date of February 18 ultimo, instructed the United States surveyor-general of California to cause to be surveyed and determined the exterior boundary lines of the rejected Moquelamos rancho; and that in pursuance thereof the survey has been duly executed, and the field-notes, with connected diagram, have been transmitted to this office.

The object of the survey was to identify the claimed limits of the said rancho, that suit might be instituted to set aside the patents for lands situate therein, erroneously issued to the Western Pacific Railroad Company, or its successor, the Central Pacific Railroad Company.

Those limits having been ascertained, I now have the honor to submit herewith a list of the tracts erroneously patented as aforesaid, and for which suit has not heretofore been begun. It is submitted as supplemental to the list of tracts situated within the limits of the same rancho, transmitted with my letter of February 1, 1879, and upon which the honorable Attorney-General has ordered suit to be instituted, as appears from his letter of February 15, referred by you on the 18th of same month.

Such documents as I deem essential are herewith submitted, being enumerated in the schedule hereto attached and forming a part of this communication.

I desire to add that no demand on the company for the return of the patents covering the lands described in the list aforesaid has been made.

Very respectfully, your obedient servant,

J. A. WILLIAMSON,
*Commissioner.*

*Schedule of papers transmitted to the Secretary of the Interior, with letter of June 30, 1879, relative to lands within the exterior limits of the Moquelamos grant, and patented to the Western Pacific Railroad Company and its successor, the Central Pacific Railroad Company.*

1. Certified copy of letters of February 18, 1879, directing the U. S. surveyor-general to cause the exterior boundary lines of the Moquelamos rancho to be surveyed.

2. Copy of the field-notes of the said survey duly certified to by the Surveyor-General.

3. Certified copy of diagram, prepared and certified to by the surveyor-general, showing the exterior lines of said Moquelamos rancho in connection with the public surveys.

4. List of the tracts situate within the said exterior limits of the said Moquelamos rancho erroneously patented to the Western Pacific Railroad Company, and its successor, the Central Pacific Railroad Company.

NOTE.—This list includes all of the lands erroneously patented to said companies within said rancho, not heretofore included in list previously submitted. The descriptions given in this list are correct; the patents in some instances include more land than actually falls within the limits of said rancho.

5. Certified copies of the patents containing lands embraced in the foregoing list, designated as follows:
Patent No. 4, issued April 9, 1870.
Patent No. 8, issued April 3, 1872.
Patent No. 10, issued February 28, 1874.
Patent No. 19, issued November 23, 1875.
Patent No. 31, issued June 6, 1879.

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## EXHIBIT L.

[Patent No. 4, dated April 9, 1870.]

*List of lands within the extended limits of the Moquelamos Rancho claim which have been patented to the Central Pacific (formerly Western Pacific) Railroad Company.*

| Parts of sections. | Sec. | Twp. | Range. | Area. |
|---|---|---|---|---|
| NE. ¼, E. ½ lots 1 and 2 of NW. ¼, and NE. ¼, SE. ¼ | 1 | 2 N | 8 E | 283.45 |
| All of | 1 | 3 | 8 | 652.80 |
| Lot 2 of NE. ¼ and lot 2 of NW. ¼ | 3 | 3 | 8 | 186.46 |
| E. ½ lot 2 of NE. ¼, SW. ¼, NE. ¼, and SE. ¼, NW. ¼ | 5 | 3 | 8 | 129.82 |
| E. ½ | 11 | 3 | 8 | 320 |
| All | 13 | 3 | 8 | 640 |
| All | 15 | 3 | 8 | 640 |
| S. ½ | 17 | 3 | 8 | 320 |
| All | 21 | 3 | 8 | 640 |
| E. ½, NE. ¼, SW. ¼, NE. ¼, NW. ¼, NW. ¼, SE. ¼ and S. ½, SW. ¼ | 23 | 3 | 8 | 400 |
| All | 25 | 3 | 8 | 640 |
| All | 27 | 3 | 8 | 640 |

*List of lands within the extended limits of the Moquelamos Rancho claim, &c.*—Continued.

| Parts of sections. | Sec. | Twp. | Range. | Area. |
|---|---|---|---|---|
| NE. ¼ | 29 | 3 | 8 | 160 |
| N. ½, NE. ¼, SE. ¼, NE. ¼, N. ½, NW. ¼, SW. ¼, NW. ¼, NE. ¼, SE. ¼, and NW. ¼, SW. ¼. | 35 | 3 | 8 | 320 |
| S. ½, SE. ¼, and NW. ¼, SE. ¼ | 23 | 4 | 8 | 120 |
| E. ½ and NW. ¼ | 25 | 4 | 8 | 480 |
| S. ½ | 27 | 4 | 8 | 320 |
| E. ½, S. ½, NW. ¼, and SW. ¼ | 33 | 4 | 8 | 560 |
| W. ½ and SE. ¼ | 35 | 4 | 8 | 480 |
| W. ½ of lot 2 of NE. ¼, and E. ½ lot 2 of NW. ¼ | 5 | 2 | 9 | 81.79 |
| S. ½, NE. ¼, and lot 1 of NW. ¼ | 5 | 3 | 9 | 566.00 |
| E. ½ lot 3 of NW. ¼, and lots 1, 2, 3 of SW. ¼ | 7 | 3 | 9 | 611.84 |
| W. ½ | 9 | 3 | 9 | 320 |
| N. ½, SW. ¼, W. ½, SE. ¼, and SE. ¼, SE. ¼ | 17 | 3 | 9 | 600 |
| S. ½ NE. ¼, lots 1, 2, 3 of NW. ¼, lots 1, 2, 3 of SW. ¼, and SE. ¼ | 19 | 3 N | 9 E | 694.16 |
| N. ½, and SW. ¼ | 29 | 3 | 9 | 480.00 |
| All | 31 | 3 | 9 | 781.50 |
| NW. ¼ NE. ¼, lots 1 and 2 of SW. ¼, and S. ½ lot 3 of SW. ¼ | 7 | 4 | 9 | 239.61 |
| NW. ¼, NW. ¼, and S. ½ SW. ¼ | 17 | 4 | 9 | 120.00 |
| E. ½ lots 1, 2, 3 of NW. ¼ and lot 3 of SW. ¼ | 31 | 4 | 9 | 613.86 |

[Patent No. 8, dated April 3, 1872.]

| | | | | |
|---|---|---|---|---|
| S. ½ lot 1 of NW. ¼ and S. ½ NE. ¼ | 7 | 4 N | 9 E | 120.00 |
| SW. ¼ SE. ¼ | 17 | 4 | 9 | 40.00 |

[Patent No. 10, dated February 28, 1874.]

| | | | | |
|---|---|---|---|---|
| W. ½ NW. ¼ | 29 | 3 N | 8 E | 80.00 |
| SW. ¼ | 25 | 4 | 8 | 160.00 |
| NE. ¼ | 35 | 4 | 8 | 160.00 |

[Patent No. 19, dated November 23, 1875.]

| | | | | |
|---|---|---|---|---|
| SE. ¼ | 7 | 4 N | 9 E | 160.00 |
| SW. ¼ and W. ½ SE. ¼ | 9 | 4 | 9 | 240.00 |
| NE. ¼ NE. ¼ | 17 | 4 | 9 | 40.00 |
| NE. ¼ and lot 1 of NW. ¼ | 19 | 4 | 9 | 240.00 |
| S. ½ SE. ¼ and S. ½ SW. ¼ | 29 | 4 | 9 | 160.00 |
| Lots 1 and 2 of SW. ¼ | 31 | 4 | 9 | 160.00 |
| Fractions 7 and 9 | 33 | 4 | 7 | *30.70 |

* In original limits of rancho.

[Patent No. 31, dated June 6, 1879.]

| | | | | |
|---|---|---|---|---|
| NE. ¼ NW. ¼ | 17 | 4 N | 9 E | 40.00 |
| NW. ¼ NE. ¼ | 33 | 3 | 8 | 40.00 |

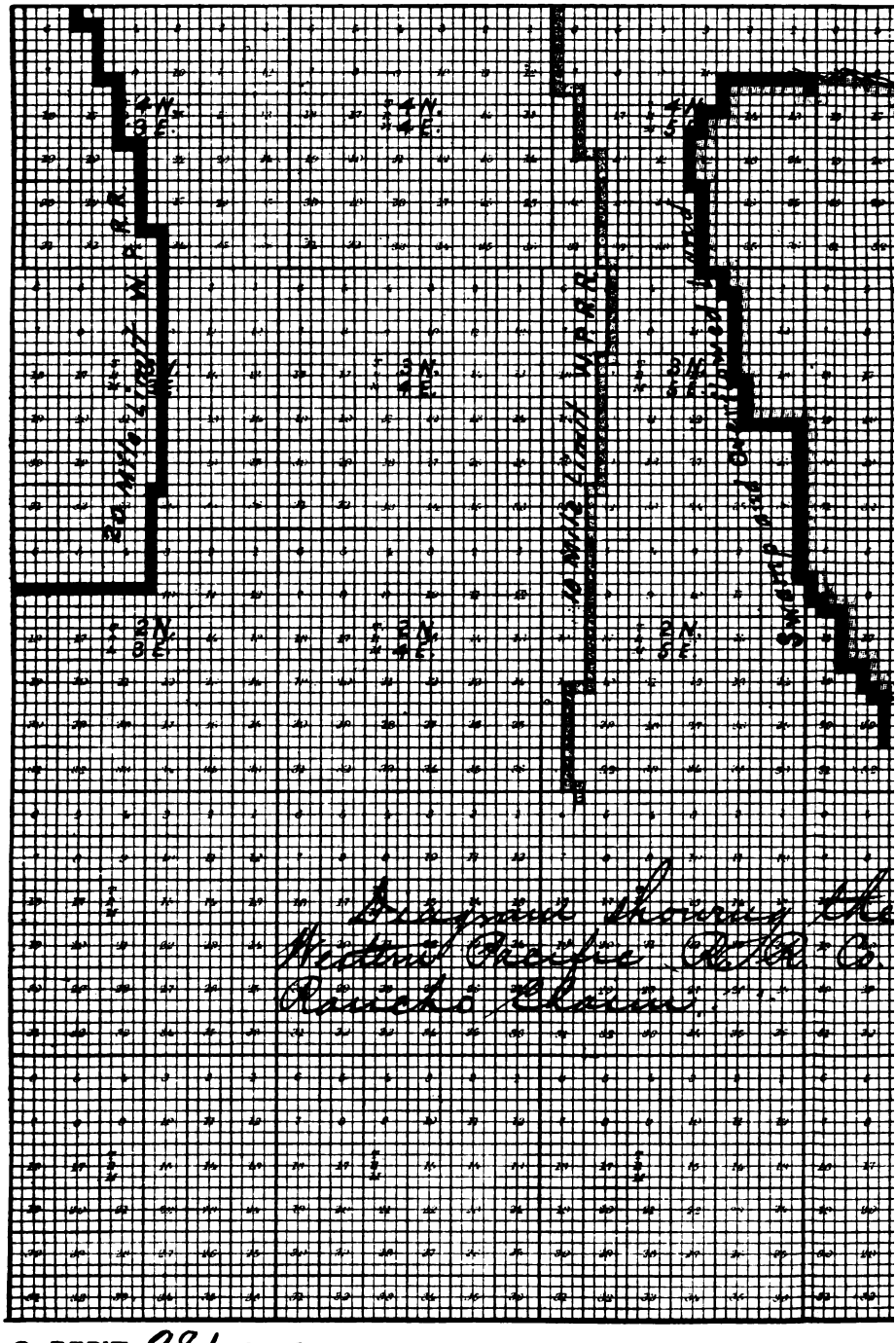
## EXHIBIT N.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
*Washington, D. C., May* 8, 1882.

Hon. HENRY M. TELLER,
*Secretary of the Interior.*

SIR: I have the honor to acknowledge the receipt of departmental letter of the 14th ultimo, transmitting, for consideration and report, a protest, with accompanying papers, from more than one hundred settlers within the claimed limits of the rejected Moquelamos grant in California, filed by Mr. Senator Miller, alleging that the survey of said rancho by A. W. von Schmidt, in February last, was not in accordance with the instructions of the Department of October 20, 1881, in that, instead of locating the east line at the base of the mountains, it is located nearly twenty miles west of the nearest mountains.

In reply I have the honor to report that a certified copy of Von Schmidt's survey




S. REP'T. 981, 2, 48.

*List of lands within the extended limits of the Moquelamos Rancho claim, &c.*—Contin

| Parts of sections. | Sec. | Twp. | Range. | A |
|---|---|---|---|---|
| NE. ¼ | 29 | 3 | 8 | 1 |
| N. ½, NE. ¼, SE. ¼, NE. ¼, N. ½, NW. ¼, SW. ¼, NW. ¼, NE. ¼, SE. ¼, and NW. ¼, SW. ¼. | 35 | 3 | 8 | 2 |
| S. ½, SE. ¼, and NW. ¼, SE. ¼ | 23 | 4 | 8 | 1 |
| E. ½ and NW. ¼ | 25 | 4 | 8 | 4 |
| S. ½ | 27 | 4 | 8 | 3 |
| E. ½, S. ½, NW. ¼, and SW. ¼ | 33 | 4 | 8 | 5 |
| W. ½ and SE. ¼ | 35 | 4 | 8 | 4 |
| W. ½ of lot 2 of NE. ¼, and E. ½ lot 2 of NW. ¼ | 5 | 2 | 9 | |
| S. ½, NE. ¼, and lot 1 of NW. ¼ | 5 | 3 | 9 | 1 |
| E. ½ lot 3 of NW. ¼, and lots 1, 2, 3 of SW. ¼ | 7 | 3 | 9 | 1 |
| W. ½ | 9 | 3 | 9 | 1 |
| N. ½, SW. ¼, W. ½, SE. ¼, and SE. ¼, SE. ¼ | 17 | 3 | 9 | 1 |
| S. ½ NE. ¼, lots 1, 2, 3 of NW. ¼, lots 1, 2, 3 of SW. ¼, and SE. ¼ | 19 | 3 N | 9 E | 1 |
| N. ½, and SW. ¼ | 29 | 3 | 9 | 1 |
| All | 31 | 3 | 9 | 1 |
| NW. ¼ NE. ¼, lots 1 and 2 of SW. ¼, and S. ½ lot 3 of SW. ¼ | 7 | 4 | 9 | 1 |
| NW. ¼, NW. ¼, and S. ½ SW. ¼ | 17 | 4 | 9 | |
| E. ½ lots 1, 2, 3 of NW. ¼ and lot 3 of SW. ¼ | 31 | 4 | 9 | 1 |

[Patent No. 8, dated April 3, 1872.]

| | | | | |
|---|---|---|---|---|
| S. ½ lot 1 of NW. ¼ and S. ½ NE. ¼ | 7 | 4 N | 9 E | 1 |
| SW. ¼ SE. ¼ | 17 | 4 | 9 | |

[Patent No. 10, dated February 28, 1874.]

| | | | | |
|---|---|---|---|---|
| W. ½ NW. ¼ | 29 | 3 N | 8 E | |
| SW. ¼ | 25 | 4 | 8 | 1 |
| NE. ¼ | 35 | 4 | 8 | 1 |

[Patent No. 19, dated November 23, 1875.]

| | | | | |
|---|---|---|---|---|
| SE. ¼ | 7 | 4 N | 9 E | 1 |
| SW. ¼ and W. ½ SE. ¼ | 9 | 4 | 9 | 1 |
| NE. ¼ NE. ¼ | 17 | 4 | 9 | |
| NE. ¼ and lot 1 of NW. ¼ | 19 | 4 | 9 | 1 |
| S. ½ SE. ¼ and S. ½ SW. ¼ | 29 | 4 | 9 | 1 |
| Lots 1 and 2 of SW. ¼ | 31 | 4 | 9 | 1 |
| Fractions 7 and 9 | 33 | 4 | 7 | |

* In original limits of rancho.

[Patent No. 31, dated June 6, 1879.]

| | | | | |
|---|---|---|---|---|
| NE. ¼ NW. ¼ | 17 | 4 N | 9 E | |
| NW. ¼ NE. ¼ | 33 | 3 | 8 | |

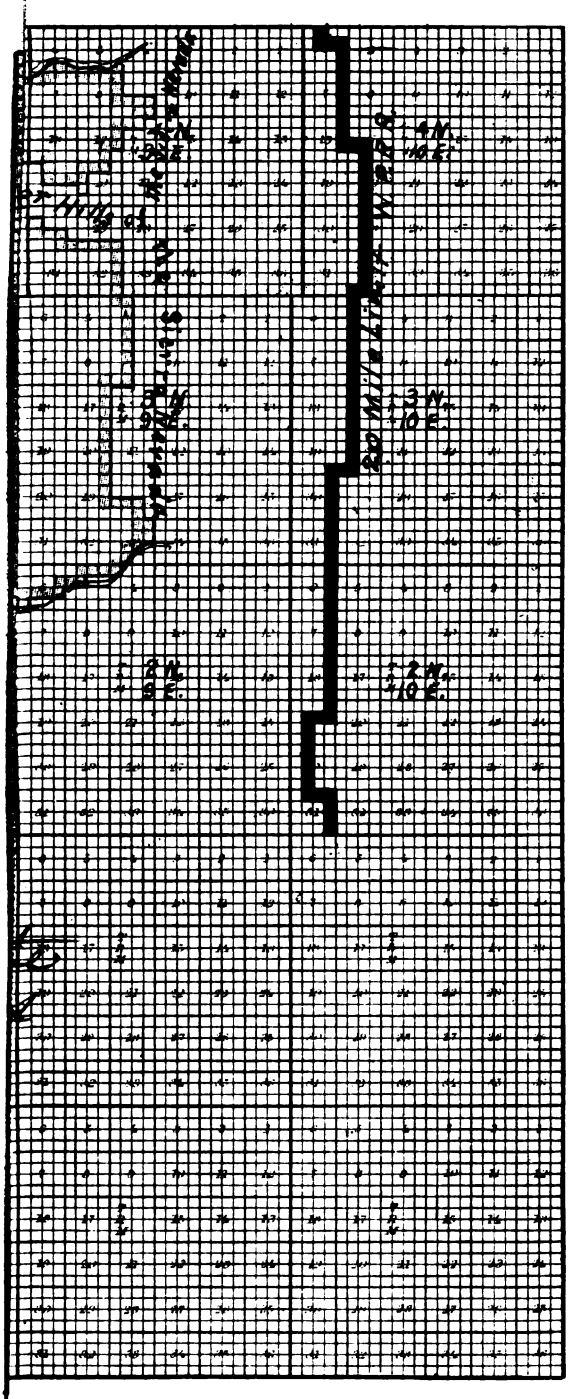
## EXHIBIT N.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
*Washington, D. C., May* 8, 18

Hon. HENRY M. TELLER,
*Secretary of the Interior.*

SIR: I have the honor to acknowledge the receipt of departmental letter o 14th ultimo, transmitting, for consideration and report, a protest, with accompar papers, from more than one hundred settlers within the claimed limits of the rej Moquelamos grant in California, filed by Mr. Senator Miller, alleging that the su of said rancho by A. W. von Schmidt, in February last, was not in accordance the instructions of the Department of October 20, 1881, in that, instead of locatin east line at the base of the mountains, it is located nearly twenty miles west o nearest mountains.

In reply I have the honor to report that a certified copy of Von Schmidt's su


Hill of Ely
Ely Station
Ely Station Road
Ely Station Road
Ely Station Road

examined in this office in connection with a copy of his report, the protests
r papers filed in the case, and the records of the public surveys on file in this

rvey by Von Schmidt locates said east line through the middle of townships
orth, range 9 east, M. D. M., somewhat east of the survey made by Deputy
r Bond in 1879, and, as he states, along the foot of hills on a line that would
eneral average, "the plains rising so gradually as to make almost imperceptit constitutes the foot of the mountains."
rveyor did not go far enough east to reach the foot of what has been termed
yors in that region as Bear Mountains, but went along certain small hills
cur in 9 east, between which and Bear Mountains the land is rolling and
d of valuable agricultural character, interspersed with small hills and ridges.
oquelamos claim was defined by the grant as bounded "on the east upon the
ridge of mountains." The only mountains shown by the field notes of the
rveys made in 1869 and 1870 are Bear and Table Mountains, which appear
t of township 4 N., range 10 E. In reference to this township the surveyor
t is impossible to run line between Secs. 11 and 14, as it would cross both
l Table Mountains." In notes of township 4 N., range 10 E., the surveyor
annot survey the southeast part of the township on account of the obstacles
d by the north end of Bear Mountain.
eral description of township 3 north, 11 east, the surveyor says the main
Bear Mountain runs through the township in a northwesterly and south-
course.
ublic surveys returned the land west of 4 north, 10 east, and 3 north, 11 east,
g the greater portion of those townships, as agricultural land, excepting a
er-mining claims on the rivers and certain tracts which were left unsurveyed
nt of being covered by a dense growth of chaparral. No trace of mountains
nible from the field notes of these surveys in the townships west of ranges 10
nd no mountain range is clearly defined west of the northeast portion of town-
orth, range 11 east.
idavit is submitted, signed by twenty-eight residents of townships 3 and 4
anges 9 and 10 east, who state that there is no ridge or range of mountains
in those townships. A large number of affidavits were previously filed from
iving on lands east of the Bond and present Von Schmidt surveys, who affirm
re are no mountains west of Bear Mountain, in range 11 east.
allegations appear to be supported by the field notes of the public surveys;
he face of testimony and evidence of such character I am not warranted in
g, or in recommending your approval of the survey made by Von Schmidt,
wn field notes fail to justify the establishment of the straight line run by
ange 9 as indicating the base of the mountains to be found under his instruc-
the east boundary of the Moquelamos claim.
ld be possible for this office to construct from the field notes of the public
a map showing the approximate line of the ridge of mountains named in the
he grant. It would not be practicable to define the base of such mountains
data alone. Even if it were, the importance of the interests involved in the
ermination of the eastern line of this grant, renders it in my judgment a clear
nty to cause an authentic survey to be made.
instructions of your predecessor of October 20, 1881, it was stated as a settled
t "when a Mexican claim is bounded by a range of mountains, the base of the
ns is regarded as the boundary." In the present case the claim was not
by a "range" of mountain, but by the "ridge," which has always been
ean the top or crest of the mountain, and not the base. The rule is, I be-
nally well settled in one case as in the other. Whenever a grant has called
idge or crest, or any other word has been used indicating the top of a mount-
surveys and patents have followed the call to the summit of the range.
here is any variation of language between the terms of the petition and the
the grant, the latter controls the former as the authoritative expression.
uthern boundary of the Moquelamos claim eastward of the east line of the
l Rancho Campo de los Franceses has been held to follow the course of the
s River. No objection has been made, to my knowledge, to this description.
tern boundary appears to be well defined, and no question exists relative to
hern boundary, which is formed by the Moquelumne River.
panying the papers in this case are the protests of certain parties claiming
e railroad company, against the survey or establishment of any line east of
tion of the Moquelamos claim in which the grant claimant elected to select the
quare leagues which were to be taken from within the larger exterior limits
by the boundaries mentioned in the original grant. These protests appear
iefly in the nature of objections to the judgment of the Supreme Court of the
States in the case of Newhall *v.* Sawyer, in which case the court stated the

legal character of lands embraced within the boundaries of the Moquelamos grant, holding the same to have been reserved by the act of Congress of March 3, 1851, and excepted from the railroad grant of 1862 and 1864. Protestants further claim that inasmuch as the lines of the public surveys have been extended over these lands, this Department has now no authority to make a survey for the purpose of defining the boundaries of the rejected private claim, and the surveyor-general suggests doubts in respect to the authority under which the expenses of such survey can be paid.

The Supreme Court having decided that while the Mexican claim was subjudice the lands were held in reserve, and could not be regarded as public lands until after the final adjudication of that claim; and as this decision affects the title to public lands embraced in such claim, it becomes necessary, for executive purposes, that the boundaries of the claim as the same existed when the lands were in a reserved condition hould be accurately and authoritatively ascertained, and I do not apprehend that the extension of the public surveys over these lands constitutes a bar to such ascertainment.

The expense of the Bond survey was paid from the general appropriation as an incident to the surveying service, and the account of Von Schmidt has been approved for payment in the same manner.

I would respectfully recommend that a new survey be now made of the disputed eastern boundary-line in such manner and in accordance with such instructions and under such superintendence as in your judgment will secure a reliable designation of said line.

The following papers are transmitted herewith;

1. Letter of transmittal from Surveyor-General Wagner.
2. Copy of instructions to Deputy Surveyor Von Schmidt.
3. Tracing of plat of survey.
4. Copy of field-notes.
5. Von Schmidt's report.
6. Protests of claimants under R. R. Co.
7. Protests of claimants under R. R. Co.
8. Notice of grant claimant filed in surveyor-general's office September 1, 1864.
9. Diagram showing the surveys of Bond and Von Schmidt.
10. Letter from Hon. J. F. Miller, United States Senator.
11. Letters from George M. Hurlbut to Senator Miller.
12. Affidavit of 28 occupying claimants.
13. Protest of 628 citizens against both the Bond and Von Schmidt surveys.
14. Argument of protestants.

Very respectfully,

N. C. McFARLAND,
*Commissioner.*

## EXHIBIT O.

**Railroads. Beck *vs.* Central Pacific Railroad Company. Moquelamos grant—new suit.—The Attorney-General is requested to file a new bill against the company for vacating the patents to the land in question. Secretary Teller to Attorney-General Brewster, December 7, 1883.]**

On January 30, 1879, my predecessor, Secretary Schurz, considered the case of Clayton Beck *et al. vs.* Central Pacific Railroad Company (Copp, April, 1879), involving lands in townships 3 and 4 north, ranges 8 and 9 east, M. D. M., in the Stockton, California, land district, alleged to be within the boundaries of the Mexican, Moquelamos grant, which was finally rejected by the Supreme Court February 13, 1865 (Pico *vs.* United States, 2 Wall., 279.). The ralroad company claimed the lands under the act of July 1, 1862 (12 Stat., 492), and the amendatory act of July 2, 1864 (13 Stat., 356), and Beck *et al.* settled upon the same lands and applied to file pre-emption declaratory statements and homestead entries, under the ruling of the Supreme Court in Newhall *vs.* Sanger (2 Otto, 761, involving the Moquelamos grant), to the effect that lands within the boundaries of an alleged Spanish or Mexican grant which was undergoing judicial investigation at the date of the withdrawal for railroad purposes were not embraced in the grant to the company.

The local officers rejected the applications of Beck *et. al.*, because the land applied for had been patented to the company, and on appeal the Commissioner of the General Land Office rejected them, because the lands were not within the boundaries of the Moquelamos grant. It appearing that certain of the lands involved in the Newhall-Sanger case had been patented to the company, it became material, in the opinion of my predecessor, to ascertain the true boundaries of that grant as preliminary to the institution of proceedings for setting aside such patents. He therefore directed a survey of the grant, and that no filings or entries for lands, which had been patented to the company within the alleged limits of the grant, be allowed until the patents

had been annulled by the proper legal tribunal. Such survey was accordingly made by United States Deputy Surveyor Bond in March, 1879, and approved by the surveyor-general.

A bill in equity having been filed by the United States *vs.* the Railroad Company, in the 9th United States circuit court, district of California, to vacate the company's patents, the court, after discussing the merits of the controversy, and stating an opinion that the patents were valid, dismissed the bill, upon the ground that the company was the sole defendant, whereas the grantees of the company or their assigns were indispensable parties to the proceeding, and should have been made such. (8 Sawyer, 81.) Whether or not, therefore, the company's patents are valid is yet undetermined.

Pending this latter proceeding my predecessor, Secretary Kirkwood, upon the representation of certain "settlers," that the bond survey was not far enough east, that being the only disputed line, ordered (October 20, 1821) a new survey of the east line of the Moquelamos grant, which was made by Deputy Surveyor Von Schmidt. This survey is now among the files, but was not (it is understood) when the case was before the court. It not being satisfactory to the "settlers," they now ask for a further survey, and also that junior patents issue to them for the lands in contest, claiming that the patents to the company are void. Under the rulings of the Supreme Court in Moore *vs.* Robbins (6 Otto, 530), United States *vs.* Schurz (12 *Ib.*, 378), Saint Louis Smelting, &c., Company *vs.* Kemp (14 *Ib.*, 636), United States *vs.* Hughes (11 How., 568), and various other authorities, to the effect that a patent divests the Government of its title, and that when issued all control over the patented lands by its executive officers ceases, I am unwilling to order the issue of the patents asked for, or to take any action respecting the lands involved, until the question of the validity of these patents is determined by the court having jurisdiction thereof. Replying, therefore, to your letter of May 18, 1882, inquiring whether appeal from the ruling of circuit court should be taken to the Supreme Court, or what other, if any, action should be taken in the premises, I respectfully request that you again submit the whole matter in controversy for judicial determination in such manner as seems to you fit.

As the precise boundaries of the Moquelamos grant become material in the disposition of the case, and the present surveys may not, in your judgment, satisfactorily determine that question, a new survey will be ordered by this Department upon your suggestion (or that of the court before which the case may be heard) to that effect. At the same time I call your attention to so much of the opinion of Judge Sawyer as deals with the Bond survey of 1879. The matter in controversy is of great importance, both as respects the number of interested persons and the quantity of land involved, and its early settlement is much desired by this Department.

I have the honor, therefore, to request that you will, at as early a day as practicable, file a new bill against the company for vacating its patents, with such other persons as defendants, that all whose rights are legally involved may be bound by the decision of the court.

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## EXHIBIT P.

DEPARTMENT OF JUSTICE,
*Washington, January* 23, 1884.

SIR: I hand you herewith copies of letters of the Secretary of the Interior of dates of December 7, 1883, and January 21, 1884, relative to the Moquelamos grant. The letters will explain themselves. I at the same time forward to you by express the papers referred to in the letter of the 21st instant, the receipt of which you will please acknowledge.

In accordance with the request of the Secretary, you are hereby directed, at as early a date as practicable, to file a new bill against the railroad company and their grantees and assigns, for the purpose of vacating the patents heretofore issued to them, unless there should be some good reason why, in your opinion, such action cannot or ought not to be taken, in which case you will report to me your conclusions, setting forth fully your reasons therefor.

Very respectfully,

S. F. PHILLIPS,
*Acting Attorney-General.*

S. G. HILBORN, Esq.,
*United States Attorney,*
*San Francisco, Cal.*

# APPENDIX TO SENATE REPORT NO. 981.

FEBRUARY 6, 1885.—Ordered to be printed as part of Senate report 981.

DEPARTMENT OF JUSTICE,
*Washington, February 4, 1885.*

SIR: Referring to your letter of the 22d of December last, asking for information relative to certain suits against the Western Pacific Railroad Company for the cancellation of patents to lands lying within the limits of what is known as the Moquelamos grant, I have the honor to state as follows:

You asked to be informed whether the second suit vs. the Company *et al.*, had been brought; and, if so, when, and against whom, and its present condition.

On December 27, I replied, giving what information I then had, and referring your letter to the district attorney for further advices. On January 12, I received his reply, a copy of which I send you. As this letter did not give me the names of all the defendants, I telegraphed for a copy of the bill. I inclose copy of the reply to that telegram.

These letters contain, I believe, answers to all your questions except as to the names of the defendants. When a copy of the bill arrives, I will send it to you.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
*Attorney-General.*

Hon. J. N. DOLPH,
*United States Senate.*

SAN FRANCISCO, *January* 5, 1885.

SIR: I have the honor to acknowledge the receipt of your letter of the 27th ultimo, in which you make certain inquiries respecting the proposed suit to set aside patents issued to the railroad company for lands in the Moquelamos grant in California.

You also inclose with your letter copy of letter from Hon. J. N. Dolph, Senator and chairman of Senate subcommittee, to whom the bill relating to these matters is referred.

You desire to be informed whether a suit has been commenced, and, if so, against whom.

In reply I desire to say that the second suit has not actually been commenced, but the bill is now in the hands of the printer, and will be filed in about ten days.

The seeming delay in commencing this action arises from the great amount of labor required in preparing the bill and the press of other business in this office.

A former suit to set aside these patents was dismissed by our circuit court for want of parties (8th Sawyer, page 81). In commencing the new suit it was necessary to get the names of all the present owners claiming any portion of the lands in question. After some correspondence with the Department I was authorized to procure an abstract of the title to the lands which was prepared.

The attorneys for the settlers upon the lands in question volunteered to take off of my hands the labor of preparing the bill, and, as I was overwhelmed with other official business, I accepted their services. Several days ago they submitted to me a draft of a bill which I examined and approved, and it is now being printed preparatory to filing.

The number of defendants is very large, and considerable time will be consumed in obtaining service.

The case shall be pushed forward as rapidly as possible, for I recognize the fact that the interests of all parties will be best served by ending this controversy which is retarding the development of a large section of country.

I believe that the above remarks answer all the questions propounded.

Very respectfully,

S. G. HILBORN,
*United States Attorney.*

Hon. BENJAMIN HARRIS BREWSTER,
*Attorney-General United States, Washington, D. C.*

SAN FRANCISCO, *January* 24, 1885.

SIR: I deem it my duty to report to you further in relation to the suit you requested me to bring to set aside certain patents issued to the railroad company for lands in the tract known as the Moquelamos grant.

In my letter to the Department of the 5th instant, I explained the reason of the delay in commencing the suit, but informed you that the bill was prepared and then in the hands of the printer. I made the statement that the bill had been given to the printer on the assurance of one of the attorneys of the settlers who was engaged in preparing the bill.

After he had given me this information a further consultation was had among the attorneys representing that side of the case, and they concluded to bring a separate suit to set aside each separate patent. As there were several patents for these lands issued at different times I was inclined to agree with them that this course was necessary.

Since the settlers on the Moquelamos consider this as their case and take great interest in it, I do not feel like dictating to them as to the details.

This change in the plan made it necessary to separate the defendants in the former suit and bring suits against those having lands on each of the patents separately.

This involves considerable labor as the defendants are very numerous.

A large part of the new bills is now printed and the whole will be finished in a few days. The bills will then be filed and I will send you the copies requested in your telegram of January 12.

I regret the delay in bringing the suits, but since the interested parties have undertaken to draw the bills and they appear to be working in good faith to perfect them as speedily as possible, I have not, as yet, thought proper to take them out of their hands.

The labor of preparing the bills in these cases is very great, more than I could properly spare for this regular business of the office. And if I should take the case away from these attorneys it would be hard for me to find time to prepare the bills immediately.

I hope to be able to report to you, in a few days, that the bills are filed.

Very respectfully,

S. G. HILBORN,
*United States Attorney.*

Hon. BENJAMIN HARRIS BREWSTER,
*Attorney-General United States, Washington, D. C.*

C.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 982.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 6, 1885.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

# REPORT:

[To accompany bill H. R. 263.]

*The Committee on Military Affairs, to which was referred the bill (H. R. 263) for the relief of George F. Bicknell, have duly considered the same, and submit the following report:*

This bill directs the Secretary of War to remove the charge of dismissal now standing upon the records of the War Department against the name of George F. Bicknell, late captain of Company C, Third Regiment Rhode Island Volunteer Cavalry, and to grant him an honorable discharge as of date June 29, 1865.

In the House of Representatives the following report was made in this case:

[House Report No. 1123, Forty-eighth Congress, first session.]

*The Committee on Military Affairs, having had under consideration the bill (H. R. 263) for the relief of George F. Bicknell, respectfully report that they find the following facts:*

George F. Bicknell, late captain Company C, Third Rhode Island Volunteer Cavalry, was mustered into service September 30, 1863, in said regiment, to date from December 21, 1862.

From the verbal testimony of Hon. George R. Davis, who was lieutenant-colonel of the regiment, it appears that he served faithfully and gallantly to the close of the war, participating in all the campaigns and engagements in which his regiment took part; that he received complimentary notice for gallant conduct at Pleasant Hill and at the engagement at Campti; that his service was characterized by activity, efficiency, and gallant conduct at all times, and that his company was one of the best in the regiment.

It further appears that after the close of hostilities Colonel Sayles, who had been absent from the regiment much of the time, reporting to duty, assumed command of the Third Rhode Island.

Captain Bicknell and his company were put on police duty, a service not very agreeable to them, and the war being over, on the 24th of June Captain Bicknell tendered his resignation, alleging the greatly reduced strength of his company arising from details and otherwise, leaving him only a lieutenant's command.

Colonel Sayles indorsed on his resignation the request that it be "accepted for the good of the service, this officer being incompetent and worthless."

It will be seen from a letter of his brigadier, the gallant R. A. Cameron, to whose brigade the Third Rhode Island Cavalry belonged, that he forwarded this letter pursuant to custom, which was that when any officer resigned it was taken as a desire to evade disagreeable duty, and the consequence was that he got as unfavorable a recommendation as possible.

And it appears from this and the two indorsements that Captain Bicknell was examined in the Forty-seventh Congress, and the following favorable report was made:

[House Report No. 1791, Forty-seventh Congress, first session.

*The Committee on Military Affairs, to whom was referred the bill (H. R. 178) for the relief of George F. Bicknell, having considered the same, respectfully report:*

This bill provides for the removal of the charge of dismissal now standing upon the records of the War Department against the name of George F. Bicknell, late a captain in the Third Regiment Rhode Island Volunteer Cavalry, and authorizes the Secretary of War to grant said officer an honorable discharge from the service.

It appears from an examination of the evidence in this case and the records of the Department that Captain Bicknell was mustered into the service September 30, 1863, as a first lieutenant, Third Regiment Rhode Island Volunteer Cavalry, and as captain to date from December 21, 1863.

It appears that he served faithfully, and even gallantly, until the close of the war, participating in all the campaigns and in every engagement in which the regiment took part. He was complimented by his commanding officer on the field for gallant conduct at the battle of Pleasant Hill and at the engagement at Campti, La.

It further appears from the evidence that the record of this officer and that of his company was excellent clear through to the close of active hostilities; good discipline, an efficient and well-drilled company, and gallant conduct were characteristics of both officers and men; and that the company took high rank in the command.

It further appears that, subsequent to the cessation of active hostilities, this officer, with his company, was detached from his regiment and placed on duty in one of the parishes of Louisiana, far removed from any superior military headquarters, and with little strictly military duty to perform; and that, not relishing this character of service, the war being over, he tendered his resignation on the 24th June, 1865, alleging, as one of his reasons therefor, the greatly reduced strength of his company and regiment, his company, by details and otherwise, having remaining in it for duty what he termed as only a lieutenant's command. It appears that his resignation, having been received at regimental headquarters, was forwarded with the "request that it be accepted for the good of the service, this officer being incompetent and worthless." The resignation was so accepted, and the officer dismissed from the service.

There appears to be no charge against this officer and no criticism of his conduct up to the time his resignation was received at his regimental headquarters.

On the strength of the indorsement he was arbitrarily dismissed the service without a hearing, without a court-martial, without an investigation.

The officer was a young man, and apparently did not know his own rights at the time of dismissal, or he would have demanded an investigation, court-martial, or filed some protest, which the evidence does not disclose as having been done.

In justice to the officer commanding the regiment at the time the indorsement was placed upon Captain Bicknell's resignation, which thereby caused his summary dismissal, it is proper to state that he had but recently joined the command, and had no personal knowledge of the gallant and meritorious conduct of this officer or that of his company during active hostilities and while the command was in the field.

Your committee are of the opinion that an injustice has been done this officer, and that his resignation, if accepted at all, should have been honorably accepted. They therefore report the bill H. R. 178 back to the House with recommendation that it do pass.

Your committee, from that report, and the verbal testimony of Hon. George R. Davis and the annexed testimony of General Cameron, entertain no doubt that the dismissal was wholly undeserved, and recommend that the bill do pass.

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DENVER, COLO., *March* 24, 1884.

*To the Committee on Military Affairs, Washington, D. C., House of Representatives, U. S. A.:*

GENTLEMEN: In the spring of 1865 I was a brigadier-general, United States Volunteers, in command of the District of Lafourche, La., with headquarters at Thibodeauxville, La.

The Third Rhode Island Cavalry, Col. Willard Sayles commanding, was part of my command.

Capt. George F. Bicknell, of Company C, of that regiment, tendered his resignation, and it was received by me, indorsed by Colonel Sayles in words, as I now recollect, as follows:

"I respectfully recommend that the within-named officer be discharged, for the good of the service."

I forwarded the resignation with an indorsement in substance as follows: "Respectfully forwarded, indorsing the recommendation of Colonel Sayles." Upon which Captain Bicknell was dishonorably discharged.

My reasons for making the indorsement I did at the time, was that our hardships were very great and dangers constant, and it was the rule among general officers to allow no officers to resign from a position of hardship and peril except from disability, unless he went out in disgrace. And to prevent the constant tendering of resignations, it was my custom, as well as others, to indorse, "Yes, for the good of the service," after inquiring of the party's immediate commanding officer of the standing and record of the applicant.

I did in this instance inquire of Colonel Sayles personally about Captain Bicknell, and he pronounced him utterly worthless.

I was not aware at the time that Colonel Sayles was bitterly prejudiced against Captain Bicknell on personal grounds. (Captain Bicknell, as I learned afterwards, had conceived that Colonel Sayles lacked military ability, and on account of which he, Bicknell, had accepted detailed service from his regiment, which had imbittered Colonel Sayles against him.)

Had I ordered Colonel Sayles to have preferred charges against Captain Bicknell, and sent the case to a court-martial, I am satisfied now that no charges would have been preferred, and if they had, none would have been maintained.

Overworked as I was at the time, I did then what I thought was right; but I now see it was a mistake, and as Captain Bicknell could not have been discharged without my consent, I hope the Government will undo this error for my sake, as well as that of Captain Bicknell and that of his family.

I have no interest in this case except that of honor, justice, and humanity.

Of my honorable intentions in making this voluntary statement, I beg to refer you to Postmaster-General Gresham, an old acquaintance, and to Secretary of the Interior Teller, who knows my record since I came to Colorado.

I am, with great respect,

R. A. CAMERON,
*Late Brevet Major-General, United States Volunteers.*

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HOUSE OF REPRESENTATIVES U. S.,
*Washington, D. C., April* 4, 1884.

DEAR GENERAL: Replying to your interrogations relative to my acquaintance and knowledge of the service of Captain Bicknell, for whose relief bill H. R. No. 263 has been introduced and is now under consideration by your committee, I have the honor to state that I first became acquainted with Capt. Geo. F. Bicknell in the fall of 1863, when he was serving as a first lieutenant in the Third Rhode Island Cavalry. He was promoted, I think, in the month of December, 1863, to a captaincy and assigned to Company C of the same regiment. I was intimately acquainted with him from this time until his discharge from the service, in 1865.

The regiment was commanded by myself during its service in the field, and for most of the time from its muster-in until its muster-out. The colonel of the regiment did not join the command until after its service in the field.

Captain Bicknell was a most excellent officer in every respect, and no company commander, and no company of the regiment, performed more gallant service. He was a disciplinarian, a good tactician, brave, never sick, always ready; his company took high rank and performed hard but gallant service in the field. He was specially efficient during the Red River campaign, and at the engagements at Alexandria, Henderson's Hill, Campti, Pleasant Hill, and Yellow Bayou, during that campaign.

At near the close of the war, when the regiment was doing service in detachments within the State of Louisiana, and after the colonel had joined and assumed control of the regiment, this officer had been, or I think at the time was, detached with his company and assigned to duty in one of the parishes of the State, remote from the headquarters of the regiment. The duty was not such as this officer admired, and he did not evince his accustomed zeal.

The colonel of the regiment did not commend himself to this brave and daring soldier, and a feeling of unfriendliness existed between them. This officer protested against the details which were made from his company, and in a moment of disappointment and chagrin at the depletion of his command, he tendered his resignation, alleging as a reason that he had but a lieutenant's command. This was indorsed and forwarded by the colonel of the regiment, with request that it be accepted "for the good of the service, as the officer was utterly worthless." It was so accepted, and as brave, loyal, and faithful an officer as ever carried a sword was summarily dismissed, disgraced, and put out of the service, without a charge, a trial, or an investigation.

The service he rendered in the field and up to the close of the war, I speak of from

personal knowledge; the discharge or dismissal is a matter of record. I invite attention to the letter of General R. A. Cameron, who was the commanding officer of the district at the time, and who approved of the colonel's recommendation, which I presented to you at the time you desired me to answer certain interrogatories which are covered by this letter.

Very respectfully, your obedient servant,

GEO. R. DAVIS.

General W. S. ROSECRANS,
*Chairman Committee on Military Affairs, House of Representatives.*

The following additional evidence has been submitted to your committee, marked A, B, C, D, and E, to wit:

A.

STATE OF RHODE ISLAND, SURGEON-GENERAL'S OFFICE,
*Centredale, July 2, 1884.*

*To whom it may concern:*

This is to certify that I well knew Capt. George Bicknell, who was captain of Company C, Third Rhode Island Cavalry, and that I was in the same regiment all of the time he served. I always considered him a good and faithful officer, and know of no good reason why he should not receive an honorable discharge.

J. C. BUDLONG,
*Late Surg. Third Rhode Island Cav., and Surg. Genl. State of Rhode Island.*

B.

STATE OF RHODE ISLAND,
*Providence, ss:*

Livingston Scott, being duly sworn, says that he was a captain in the 3d R. I. Cavalry—captain of Co. F; that he held that position during the whole period of the company's service in the rebellion, extending from about January, 1864, to November, 1865, and that from August, 1863, to his promotion to said captaincy he was 1st lieutenant and adjutant of said regiment; that he was acquainted with Captain George F. Bicknell, of Co. C of, said regiment, from the time he, said Bicknell, joined the regiment until his dismissal; that deponent always regarded said Bicknell as a competent and efficient officer, and knows nothing and never heard anything up to the time of his dismissal affecting his efficiency and competency as an officer; that deponent was not present with the body of the regiment at or about the time of his dismissal, deponent's company being on detached service, but deponent believed at the time, and still believes, that the dismissal of said Bicknell from the service was unjust to him and without sufficient cause.

LIVINGSTON SCOTT.

Subscribed and sworn to before me this 2d day of July, 1884.
[SEAL.] RICHARD B. COMSTOCK,
*Notary Public.*

C.

I, Charles H. Parkhurst, of Providence, in the State of Rhode Island, on oath, declare and say that I was lieutenant-colonel of the Third Rhode Island Cavalry from February 4, 1864, until May 26, 1865. I was in command of a portion of the regiment in Louisiana from April, 1864, to July, 1864. I was also with the regiment from October, 1864, to May 26, 1865, and during a portion of the latter period was in command of the regiment. During the whole time I was an officer of the regiment I knew Capt. George F. Bicknell, of Company C, of that regiment. He served through the second Red River campaign, and never, to my knowledge, was the subject of censure from his superiors. He was under the command of Maj. George R. Davis, now a member of the House of Representatives from Illinois, during the early part of that campaign. During the time he was under my immediate command Captain Bicknell proved himself a faithful and efficient officer, and I never knew that any charges of any kind were ever made against him. I have no knowledge of what took place after my resignation, on May 26, 1865, and never heard of any act on his part which should affect any way his right to an honorable discharge.

CHARLES H. PARKHURST.

Subscribed and sworn to in Providence, in the State of Rhode Island, July 2, 18[illegible]
ROBERT J. DRAPER,
[SEAL.] *Notary Public.*

D.

N. Cross, of South Kingston, in the county of Washington, State of Rhode
ath declare and say that I was first lieutenant of Company C, Third
l Cavalry, from October, 1863, until May 23, 1865; that George F. Bicknell
sioned as captain and assumed command of said Company C soon after I
ommand, and that said Bicknell continued as captain of said Company C
ned my commission in said May, 1865; that I considered Captain Bicknell
est officers in the regiment. He was always ready for duty. A thorough
n; brave upon the field of battle, and a courteous gentleman.

ELISHA W. CROSS,
*Late First Lieutenant Company C, Third Rhode Island Cavalry.*

HODE ISLAND,
*Washington, ss:*

Kingston, this 3d day of July, A. D. 1884, personally appeared the said
oss and made oath to the above statement before me.

T. A. GARDNER,
*Notary Public.*

E.

Ellis, of Mansfield, Mass., late captain of Company A, Third Rhode Island
ose and say that I personally know George F. Bicknell, late captain of
Third Rhode Island Cavalry; that the said Bicknell joined the regi-
de Island on or about the 1st of October, 1863; that he served with his
l regiment up to the 29th of June, 1865, when he was discharged on his
sion and for the alleged reason of "the good of the service." I further
ay that I always found the said Captain Bicknell a brave and efficient
he time he joined the regiment to the time of his discharge, ever courteous,
l ready for duty in the camp or field. At the battle of Pleasant Hill he
in the morning in command of a reconnoitering party and advanced the
farther than any other officer that day; that in all the engagements and
which the regiment took part in on the Red River campaign Captain
l looked upon by the regimental and brigade commanders as one of the
t officers in the regiment, and he, with one other officer, were all the
hat served through the Red River campaign without being relieved from
w these facts for the reason that I was with the command during the
sign, and from the 15th of April, 1864, until about the 4th of May, 1864,
the same.
epose and say that the reason assigned on the discharge of Capt. George
namely, "the good of the service," was an act of injustice to said officer
nflicted upon him in a spirit of malice by his commanding officer, Col.
les; that said Col. Willard Sayles has said to me on several occasions
talked with him upon the subject of said Bicknell's discharge and re-
with him upon what I considered the injustice of the same, that he
ft his hand to relieve said Bicknell from the censure that was laid upon
he, Sayles, had got square with said Bicknell by getting him discharged
d of the service," and his ends were answered.

Capt. A. A. ELLIS.

ALTH OF MASSACHUSETTS, BRISTOL, *ss:*

l and sworn to before me December 12, 1884.

FRANK J. BABCOCK,
*Notary Public.*

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not appear that any reference was made to the War Depart-
he records there existing.
nmittee referred the bill to the Secretary of War, and received
he following:

WAR DEPARTMENT,
*Washington City, June 28th,* 1884.

owledging the receipt of your letter of the 13th instant, inclosing a copy
an act "For the relief of George F. Bicknell," and requesting to be fur-
a full statement of service and military record of said Bicknell, and

copies of all proceedings relating to his dismissal, and of the action of the Department touching the same, I have the honor to inclose herewith a report of the Adjutant-General, dated the 19th instant, and its accompanying papers, which, it is believed, afford the desired information in the case.

Very respectfully, your obedient servant,

ROBT. T. LINCOLN,
*Secretary of War.*

Hon. F. M. COCKRELL,
*Of Com. on Military Affairs, U. S. Senate.*

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WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
*Washington, June* 19, 1884.

SIR: I have the honor to return herewith a letter of Hon. F. M. Cockrell, of Committee on Military Affairs, United States Senate, dated the 13th instant, inclosing an act (H. R. 263, Forty-eighth Congress, first session) "For the relief of George F. Bicknell," and requesting to be furnished with the full military record of Captain Bicknell, together with copies of all proceedings relating to his discharge, as well as of any subsequent proceedings in relation thereto, and to report as follows:

The records of this office show that George F. Bicknell was mustered into service as first lieutenant Third Rhode Island Cavalry, September 30, 1863, and as captain to date December 21, 1863.

On June 24, 1865, he tendered his resignation, and the acceptance of the same having been recommended by the regimental, post, and district commanders, "for the good of the service," he was, thereupon, discharged the service June 29, 1865, in orders from Department of the Gulf. Copies of the papers relating to his discharge are herewith inclosed.

Captain Bicknell's petition for an honorable discharge has been several times before the Department (through Governor Smith, of Rhode Island; Senator Anthony, Hon. B. F. Butler, Messrs. McLellan and Benedict, attorneys, and others) with adverse results.

On a reference of the case by Governor Smith in December, 1866, the entire matter was referred to Major-General Canby, commanding Department of the Gulf. That officer returned the papers indorsed as follows: "My recollection of this case is general and indefinite, but there is no doubt of the existence of the facts alleged against this officer as the cause of his dismissal, and it is not seen how his previous good character can affect this state of facts. Captain Bicknell assumed to determine for the Government that his services could be dispensed with, and, in acting upon that determination, not only made himself useless as an officer, but an instrument in creating disaffection and disorganization in his command. This action and feeling was not confined to the Third Rhode Island Cavalry, but was becoming general, and some measures were necessary to prevent its spreading and terminating in insubordination."

I am, sir, very respectfully, your obedient servant,

CHAUNCEY McKEEVER,
*Acting Adjutant-General.*

The Hon. SECRETARY OF WAR.

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[Headquarters Company C, Third Rhode Island Cavalry.]

NAPOLEONVILLE, LA., *June* 24, 1865.

SIR: By reason of the companies in this regiment being so much reduced in strength as to have hardly a lieutenant's command in each company, particularly in my own company, which numbers but forty-three enlisted men, aggregate, with only twenty-six present for duty, making but little more than one platoon, twelve in front, I have the honor to tender to the general commanding my resignation as captain of Company C, Third Rhode Island Cavalry. I am responsible for one quarter (ending June 30, 1865) of ordnance for which my returns have not been made out.

I am, sir, very respectfully, your obedient servant,

GEO. F. BICKNELL,
*Captain Commanding Company C, Third Rhode Island Cavalry.*

ASSISTANT ADJUTANT GENERAL,
*Department of the Gulf.*

[First indorsement.]

HEADQUARTERS THIRD RHODE ISLAND CAVALRY,
*Post Napoleonville, La., June 25, 1865.*

Approved and respectfully forwarded. This officer is perfectly worthless. He is incompetent to command even the reduced number of his company, which reduction is probably owing more to his own mismanagement than any other cause.

WILLARD SAYLES,
*Colonel Third Rhode Island Cavalry, Commanding Regiment and Post.*

[Second indorsement.]

HEADQUARTERS LA FOURCHE DISTRICT,
*Thibodeaux, La., June 26, 1865.*

Respectfully forwarded; approved for the good of the service. I know Captain Bicknell to be perfectly worthless as an officer, and fully indorse the remarks of his regimental commander.

G. A. CAMERON,
*Brigadier-General Volunteers, Commanding District.*

[Third indorsement.]

HEADQUARTERS SOUTHERN DIVISION OF LOUISIANA,
*New Orleans, June 27, 1865.*

Respectfully forwarded, approved, and recommend discharge for incompetency and worthlessness.

T. W. SHERMAN,
*Brevet Major-General, Commanding.*

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[Special Orders No. 173.]

HEADQUARTERS DEPARTMENT OF THE GULF,
*New Orleans, La., June 29, 1865.*

[Extract.]

* * * * * * *

11. Capt. George F. Bicknell, Company C, Third Rhode Island Cavalry, having tendered his resignation, and the acceptance of the same having been recommended by the regimental, post, and district commanders, "for the good of the service" (being incompetent and worthless), he is hereby discharged the military service of the United States, on condition that he shall receive no final payment until he has satisfied the pay department that he is not indebted to the Government.

* * * * * * *

By order of Maj. Gen. E. R. S. Canby:

J. SCHUYLER CROSBY,
*Brevet Lieutenant-Colonel, Aide-de-Camp,*
*Acting Assistant Adjutant-General.*

From these records, officially given, it appears that Captain Bicknell, on June 24, 1865, addressed a communication to the assistant-adjutant-general, Department of the Gulf, tendering his resignation as such captain to the general commanding, and that this resignation was forwarded through the regular military channels, regimental headquarters, district headquarters, and division headquarters to the department headquarters of Maj. Gen. E. R. S. Canby, and was approved by the regimental, district, and division commanders respectively, and that the regimental commander, in addition to the approval, indorsed thereon his opinion of Captain Bicknell in no complimentary expressions, and that the district commander, General R. A. Cameron, indorsed the opinion of the regimental commander, and that the commanding general *accepted* the *resignation* and did not dishonorably dismiss Captain Bicknell, but in accepting the resignation inserted the opinions, in part, of the regimental, district, and division commanders, and upon the acceptance of the resignation Captain Bicknell ceased to be an officer.

It appears, therefore, clearly, that there is no "charge of dismissal now standing upon the records of the War Department against the name of George F. Bicknell, late captain," &c., and consequently the Secretary of War could not remove what does not exist, and the bill could accomplish nothing.

The whole case is that Captain Bicknell regularly tendered his resignation, and it was duly accepted by the proper officer, and he thereupon ceased to be an officer.

The regimental, district, division, and department commanding officers gave, in their indorsements approving and accepting the resignation, their opinions of Captain Bicknell, as reasons for so approving and accepting. This was a matter of discretion or propriety.

How can Congress, by any legislation, revise, correct, or annul this discretion or propriety on the part of these officers nearly twenty years afterward, or direct the Secretary of War to remove the same not from the records proper of the War Department, but from the papers and files transmitted to the War Department from the headquarters of the department commander? Your committee do not consider that any such legislative power exists. These officers, who gave these expressions of opinion as a matter in their own discretion and sense of propriety, in indorsing the resignation, could now, if living, append any modification and correction of those expressions deemed by them now proper, and to this extent remedy any reflection then and there made upon the character, &c., of Captain Bicknell.

Generals Canby and Sherman are dead, and General Cameron and Col. Willard Sayles are living.

Gen. R. A. Cameron, as will be seen by the foregoing report, has made a full explanation of the reasons that prompted his indorsement. It is all he can now do. This letter of General Cameron could, and would doubtless upon request, be placed upon the files of the War Department as an explanation of his indorsement on the resignation.

Your committee do not see that anything more can be done. They therefore report the bill back to the Senate with the recommendation that no further action be taken, and the bill be laid upon the table.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 983.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 13, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 1546.]

*The Committee on Pensions, to whom was referred the bill (S. 1546) granting a pension to Orrin R. McDaniel, respectfully submit the following report:*

The application for pension in this case has been rejected because the Adjutant-General's Office failed to find any record of claimant's service, "and hence," as the Commissioner says in his letter to this committee, "the adjudication of the claim cannot be proceeded with, for it is the business of the War Department to furnish proof of service, and the report of non-service now on file must be accepted by this office as conclusive evidence, notwithstanding the testimony of Lieutenant Rives and Comrade Hutchison as to soldier's enlistment, &c."

McDaniel served five years in the Regular Army, and was discharged in April, 1861. He claims to have enlisted as a veteran in Company H, Sixty-fourth Illinois Volunteers, December 26, 1863, and to have been sent home on sick furlough February 4, 1864; that he was attacked with opthalmia and prevented from returning to his company; that he was sick in bed for several months, and was totally blind for two years; that he is now totally blind in the right eye and the sight of the left eye is very badly affected.

In August, 1865, affidavits were made in this case by Drs. Edwin C. Woolly and Abram J. Miller, who were partners in the practice of medicne at Paris, Ill., where McDaniel resided. Dr. Woolly testified that on February 9, 1864, McDaniel was suffering from a desperate attack of purulent opthalmia (not venereal) of eight or nine days' standing; that McDaniel was suffering intensely, but was very anxious to recover speedily and rejoin his regiment; that he used all means in his power to reduce the inflammation and save McDaniel's eyes, but the disease resisted all his efforts; that he reported to his captain that McDaniel would never be fit for duty; that said captain directed him to keep McDaniel at home until fit for service, and to report him occasionally, which affiant did.

Dr. Miller testified that he examined McDaniel December 26, 1863, for the service, and passed him as sound and fit for duty; that the clearness of his eyes and the intensity of their color especially attracted his attention; that McDaniel was a man of vigorous constitution, and physically sound in every particular when affiant inspected him for the service; that he next saw him February 9, 1864, when McDaniel's condition was as described by Dr. Woolly; that the firm was requested by

Captain Stoner, of McDaniel's company, to report his condition to him occasionally; that affiant was fully satisfied that Woolly did report to Stoner frequently, and believed he had himself so reported, but could not swear positively to the fact.

Robert S. Rives, first lieutenant of the company, makes affidavit that McDaniel was duly enrolled on the lists of the company as a private, and was duly enlisted in the service about December 25, 1863.

John Hutchison, a private in the same company, swears that McDaniel was duly enrolled in said company.

The examining surgeons of the Pension Office have certified as to McDaniel's disability by reason of opthalmia.

The committee think the evidence is sufficient to show conclusively that McDaniel was actually in the military service as a soldier of the Union Army, and there being no doubt that he was totally blind for two years after his illness, which occurred at the time of his alleged service, and that he is now blind in one eye and partly in the other, your committee are of the opinion that he should be allowed a pension, and therefore recommend the passage of the bill.

O

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 981.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 13, 1885.—Ordered to be printed.

Mr. DOLPH, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill S. 656.]

The Committee on Claims, to whom was referred the bill (S. 656) for the benefit of the States of California, Oregon, and Nevada, and Nevada when a Territory, have duly examined the same, and report the same back to the Senate with amendments.

By the act of Congress entitled "An act to indemnify the States for expenses incurred by them in defense of the United States," approved July 27, 1861, the Secretary of the Treasury was authorized and directed "to pay to the governor of any State, or to his duly authorized agents, the costs, charges, and expenses properly incurred by such State for enrolling, subsisting, clothing, supplying, arming, equipping, paying, and transporting its troops employed in aiding to suppress the present insurrection against the United States, to be settled upon proper vouchers to be filed and passed upon by the proper accounting officers of the Treasury."

By the first section of an act of Congress approved June 27, 1882, the Secretary of the Treasury was authorized and directed, with the aid and assistance of the Secretary of War, to cause to be examined and investigated all the claims of the States of Texas, Colorado, Oregon, Nebraska, California, and Nevada, and the Territories of Washington and Idaho against the United States for money alleged to have been expended, and for indebtedness alleged to have been assumed, by said States and Territories in organizing, arming, equipping, supplying clothing, subsistence, transporting, and paying the volunteer and military forces of said States and Territories called into active service by the proper authorities thereof between the 15th day of April, 1861, and the date of said act to repel invasion and Indian hostilities in said States and Territories and upon their borders, including all proper expenses necessarily incurred by said States and Territories on account of said forces having been so called into active service, and all proper claims paid or assumed by said States and Territories for horses and equipments actually lost by said forces in the line of duty in active service, excepting the claim of the State of Oregon for expenditures in suppressing the Modoc Indian hostilities, the payment for which had already been provided for by act of Congress.

By the second section of said act it was provided that no higher rate for supplies, transportation, and other proper expenses than was allowed and paid by the United States for similar services in the same grade and for the same time in the United States Army serving in said States and Territories, and for similar supplies, transportation, and

other proper expenses during the same time furnished the United States Army in the same country, and that no allowance should be made for the services of such forces except for the time during which they were engaged in active service in the field, or for expenditures for which the Secretary of War should decide there was no necessity at the time and under the circumstances.

The first section of the bill under consideration is intended to authorize the Secretary of the Treasury and the Secretary of War, in adjusting the claims of the said States under the acts above mentioned, to receive secondary evidence of the contents of any original paper relating to claims under said acts which may have been lost or destroyed. When amended, as proposed by your committee, this section seems to be unobjectionable.

The second section is intended to authorize the accounting officers of the Treasury, in adjusting the claims of said States under said acts, to credit such of said States and Territories with the amount of money actually expended by them from their respective treasuries, on account of extra pay, bounty, and relief to troops called into the service of the United States.

Large amounts were paid by States and municipal corporations for bounty and relief to volunteers during the war of the rebellion.

Your committee has been unable to find that the United States has yet assumed or paid to any State under the provisions of the act of July 27, 1861, or any other act, the amounts so paid by such State for bounty or relief, and is unwilling, at this time, to establish a precedent for such payment.

Your committee therefore report the bill back to the Senate, and recommend that when the amendments proposed by the committee are made to the bill, it do pass.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 985.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 13, 1885.—Ordered to be printed.

Mr. DOLPH, from the Committee on Public Lands, submitted the following

# REPORT:

[To accompany bill H. R. 7004.]

The Committee on Public Lands, to which was referred the bill (H. R. 7004) entitled "An act to repeal all laws providing for the pre-emption of the public lands, and the laws allowing entry for timber culture," has had the same under consideration and reports the same back with certain amendments.

The following is a copy of the bill as it came from the House:

[H. R. 7004, Forty-eighth Congress, First Session.]

AN ACT to repeal all laws providing for the pre-emption of the public lands and the laws allowing entries for timber-culture.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That chapter four of title thirty-two and sections twenty-two hundred and ninety-nine and twenty-three hundred and nine of the Revised Statutes of the United States, and all other laws allowing pre-emption of the public lands of the United States, are hereby repealed: *Provided however*, That all persons having the right of pre-emption who have heretofore, in good faith and in the absence of fraud, made settlement on the public lands of the United States conformable to the pre-emption laws heretofore in force, shall be permitted to make final proof and entry of the land so settled upon, not exceeding one hundred and sixty acres, conformable to existing pre-emption laws.

SEC. 2. That sections twenty-four hundred and sixty-four, twenty-four hundred and sixty-five, twenty-four hundred and sixty-six, twenty-four hundred and sixty-seven, and twenty-four hundred and sixty-eight be, and the same are hereby, repealed: *Provided*, That such repeal shall not prejudice the rights of those who have in good faith made entries under the law and complied with the requirements thereof: *And provided further*, That whenever, from any cause, any person legally eligible thereto has entered and located a homestead, and subsequently loses the same in consequence of any grant previously made, or by any means whatever, without fault on his or her part, such person, upon satisfactory proof made thereof, may enter another homestead upon any of the lands of the United States subject to homestead.

SEC. 3. That every homesteader shall make final proof, by two credible witnesses, that he has continuously resided upon and cultivated and permanently improved his or her homestead for four consecutive years next succeeding such entry. Such proof shall be in duplicate, and filed, one set in the local land-office and one in the General Land-Office, for one year; and if no contest be filed and no notice given, supported by affidavit made before some officer, State or Federal, authorized to administer oaths, charging and specifying fraud, either in the original entry or the proof made and filed as aforesaid, before the expiration of that time, the Secretary of the Interior shall cause the patent to issue on the entry; but if a contest be filed or affidavit be made as aforesaid, or if there be, from any cause, reasonable ground to suspect fraud in the case, the Secretary of the Interior shall cause the Commissioner of the General Land Office to investigate the same and make such order as shall be just and lawful. And an act entitled "An act to provide additional regulations for homestead and pre-

emption entries on public lands," approved March third, eighteen hundred and seventy-nine, be, and the same is hereby, repealed.

SEC. 4. That section twenty-three hundred and one of the Revised Statutes be amended so as to read as follows:

"SEC. 2301. Nothing in this chapter shall be so construed as to prevent any person who has availed himself of the benefits of section twenty-two hundred and eighty-nine from paying the minimum price for the quantity of land so entered at any time after the expiration of thirty calendar months from the date of such entry, and obtaining a patent therefor, the proofs of actual settlement and cultivation thereof to be filed at least six months prior and as preliminary to the application for the patent, and in the same manner and to the same effect as is provided and required in section three of this act as to final proofs and the issuance of patents."

SEC. 5. That an act entitled "An act to provide for the sale of desert lands in certain States and Territories, approved March third, eighteen hundred and seventy-seven," is hereby repealed.

SEC. 6. That after the passage of this act no public lands of the United States adapted to agriculture shall be sold except mineral lands and town-sites; and all of the public lands of the United States adapted to agriculture shall be reserved for actual and bonifide settlers only under the provisions of the homestead laws, subject, however, to bounty-land warrants and college scrip issued by authority of Congress, and the grants which Congress has made and shall hereafter make in the new States and Territories for the purpose of education; but all laws and parts of laws touching the rights of the officers, soldiers, and seamen heretofore in the military or naval service of the United States in the public lands are continued in full force: *Provided*, That nothing herein contained shall be construed to amend or repeal the act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory, passed June third, eighteen hundred and seventy-eight: *Provided further*, That nothing in this act shall be construed to impair, defeat, or in any manner affect the rights of any State to indemnity for swamp and overflowed lands granted to the State of Arkansas and other States under the provisions of an act entitled "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits," approved September twenty-eight, eight hundred and fifty, as provided in sections twenty-four hundred and seventy-nine, twenty-four hundred and eighty, twenty-four hundred and eighty-one, twenty-four hundred and eighty-two, twenty-four hundred and eighty-three, twenty-four hundred and eighty-four, twenty-four hundred and eighty-five, twenty-four hundred and eighty-six, twenty-four hundred and eighty-seven, twenty-four hundred and eighty-eight, twenty-four hundred and eighty-nine, and twenty-four hundred and ninety of the Revised Statutes of the United States.

Passed the House of Representatives June 24, 1884.

Attest:

JNO. B. CLARK, JR., *Clerk.*

The following are the amendments proposed by the committee:

*First.* After the word "thirty-two," in line 3, section 1, insert the following words: "Excepting sections twenty-two hundred and seventy-five, twenty-two hundred and seventy-six, twenty-two hundred and eighty-three, twenty two hundred and eighty-six, and twenty-two hundred and eighty-eight."

*Second.* In line 4, section 1, strike out the words "and twenty-three hundred and nine."

*Third.* Strike out the entire proviso in section 1, and insert in lieu thereof the following:

"*Provided, however*, That this repeal shall not affect any valid rights heretofore accrued or accruing under said laws, but all bona fide claims lawfully initiated before the passage of this act may be perfected, upon due compliance with law, in the same manner, upon the same terms and conditions, and subject to the same limitations, forfeitures, and contests as if this act had not been passed. *And provided further*, That any person who has not heretofore had the benefit of the pre-emption law and who has failed, from any cause, to perfect title to a tract of land heretofore entered by him under the homestead laws, may make a second homestead entry in lieu of the pre-emption privilege hereby repealed."

*Fourth.* In section 2 strike out after the word "that," in line 1, the rds "sections twenty-four hundred and sixty-four, twenty-four hun- d and sixty-five, twenty-four hundred and sixty-six, twenty-four hun- d and sixty-seven, and twenty four hundred and sixty-eight," and ert in lieu thereof "An act entitled 'An act to amend an act entitled n act to encourage the growth of timber on the Western prairies,'" proved June 14, 1888."

Also strike out in line 5 of same section the word "are" and insert " in lieu thereof.

*Fifth.* Strike out the entire proviso in section 2 and insert in lieu reof the following:

'*Provided, however,* That this repeal shall not affect any valid rights etofore accrued or accruing under said laws; but all bona fide claims fully initiated before the passage of this act may be perfected, upon compliance with law, in the same manner, upon the same terms l conditions, and subject to the same limitations, forfeitures, and tests as if this act had not been passed."

*Sixth.* Strike out section 3.

*Seventh.* In line 7 of section 4 (printed bill) strike out the word hirty" and insert the word "eighteen" in lieu thereof.

*Eighth.* Add the following proviso to section 5 of the printed bill:

'*Provided, however,* That this repeal shall not affect any valid rights retofore accrued or accruing under said laws; but all bona fide claims rfully initiated before the passage of this act may be perfected, upon e compliance with law, in the same manner, upon the same terms l conditions, and subject to the same limitations, forfeitures, and itests as if this act had not been passed."

*Ninth.* Strike out section 6 and insert the following in lieu thereof:

'SEC. 5. That after the passage of this act no public lands of the ited States shall be sold at public auction or be subject to private ry, and all offered public lands are hereby withdrawn from market l shall be disposed of as unoffered public lands."

Add the following section:

'SEC. 6. That section twenty-two hundred and eighty-eight of the Re- ed Statutes be amended so as to read as follows:

"SEC. 2288. Any person who has already settled on the public lands, her by pre-emption or by virtue of the homestead law, or any amend- nts thereto, and any person who shall hereafter settle on the public ds by virtue of the homestead law or any amendments thereto, shall e the right to transfer by warranty against his own acts any portion is pre-emption or homestead for church, cemetery, or school purposes, or the right of way of railroads across such pre-emption or home- d, and the transfer for such public purposes shall in no way vitiate right to complete and perfect the title to their pre-emptions or home- ds.'"

*Last.* Amend the title by striking out in the title the word "and" and ing thereto the words "the laws authorizing the sale of desert lands ertain States and Territories, and for other purposes."

The first amendment is necessary to continue in force certain pro- ions of chapter 4 of Title 32 not especially relating to the pre-emp- n law, but of a general character, which must have been overlooked the House, and which it could not have been the intention of the use Committee on Public Lands, or of the House, to repeal.

By the second amendment it is proposed to continue in force section 9 of the Revised Statutes. The bill as it came from the House pro-

vided for the repeal of this section, which relates to soldiers and sailors, but by section 6 of the same bill the provision was continued in force.

By the third amendment it is proposed to slightly change and, as your committee believes, improve the form of the proviso to section 1, and to slightly change in form and transfer the last proviso of section 2 to section 1, where it seems to more appropriately belong.

The fourth amendment is necessary, in the opinion of your committee, because the bill as it came from the House provides for the repeal of certain sections of the Revised Statutes relating to timber culture which were superseded and repealed by the act of June 14, 1878. The amendment proposed by your committee substitutes that act for the dead sections of the Revised Statutes.

The fifth amendment proposed by the committee changes the language, and, as your committee believes, improves the form of the proviso to section 2.

The sixth amendment proposed by the committee is to strike out section 3 of the bill as it came from the House. This section in substance provides that the final proof of a settler under the homestead law may be made at the expiration of four years succeeding the entry under the law; that the proof shall be in duplicate, and one set filed in the local land office, and the other in the General Land Office for one year, and that patents shall issue at the expiration of one year after the filing of the proofs, if in the mean time notice has not been given, supported by affidavit charging fraud, either in the original entry or on the proof made, and, in case of such notice if there be reasonable ground to suspect fraud, the Secretary of the Interior shall cause the Commissioner of the General Land Office to investigate the same; and for the repeal of an act entitled "An act to provide additional regulations for homestead and pre-emption entries upon the public lands," approved March 3, 1879.* This act was urged upon Congress by the General Land Office as the result of many years' experience. The expense of publication is slight, certainly no more than for the duplicate proof required for the first part of the proposed section. This law of 1879 alone prevents much fraud, and honest settlers will not object to its continuance. The best features of this proposed section 3 are already in use in the Land Office, namely, the investigation of fraudulent entries.

The effect of this section appears to be to shorten the period of residence and cultivation one year, as no proof is required of residence and cultivation during the period which must elapse after filing the proofs required by the section and the granting of the patent.

In the opinion of your committee the law as it is at present is better calculated to prevent fraud than it would be if amended as proposed by the bill.

By the seventh amendment it is proposed to reduce the period of residence and cultivation required before a homestead settler can commute his homestead entry from thirty months, as provided in the bill as it came from the House, to eighteen months. As the bill came from the House section 4 provided for the amendment of section 2301 of the Revised Statutes so as to require thirty calendar months to expire after a party has availed himself of the homestead act before he is entitled to commute for the same and receive a patent for his land, and the proof of settlement and cultivation to be filed at least six months before application for patent can be made. Under the law as it now

* Which act, among other things, requires 30 days' notice to be given, by publication in a newspaper, of the intention of the settler to make final proof, and of the time and place fixed for making such proof.

ıds a homestead claimant can commute for his homestead at any
ɜ after six months within five years from the date of his entry.
ı object of the amendment is to prevent the commission of fraud, but
he opinion of your committee the change is too great, and the time
esidence and cultivation required before application for patent can
nade should be reduced to eighteen months.
'our committee do not believe that it would be wise either to repeal
irely the commutation feature of the homestead law, or to change it
ıuch an extent as to destroy its practical value. There are weighty
sons why this feature of the homestead law should be continued.
ıables settlers whose means are almost invariably exhausted before
land furnishes any return for their labor to furnish a basis for loans
erewith they may purchase machinery to improve their lands.
'he apparent object of section 6 of the bill as it came from the House
o prevent cash sales. As worded, it leaves much in doubt and con-
ates valuable vested rights. If this section should become a law, it
ıld seem as if no lands could be selected for railroads, canals, or
ɣon roads. The only scrip mentioned are military bounty warrants,
icultural college, soldiers' and sailors' rights (additionals).
here are several other kinds of scrip extant, issued under other acts
Congress, which have been bought and sold on the strength of such
ctments.
he apparent object of section 6 can be accomplished, and objections
eto removed, by substituting for the section the section proposed
he committee as an amendment.
y the new section proposed by the committee to be added to the
it is proposed to change the form of section 2288 to make it con-
n to the laws as they will stand after the repeal of the pre-emption

## REPEAL OF THE PRE-EMPTION LAW.

he policy of the Government in administering the public domain
many years was to sell the public lands as rapidly as possible, and
btain as much revenue as possible therefrom. Under the practice
ffering lands at public sale under the proclamation of the President
then placing them upon the market subject to private entry,
rly all the best lands in the market, as far as they were surveyed,
e secured and controlled by companies or single proprietors who
chased them for purposes of speculation. Under such a state of
ıgs it was found impossible to restrain settlers within the limits of
veyed lands. They pressed beyond the surveyed limits to find Gov-
ment lands suitable for homes. From time to time, prior to the year
0, it was found necessary for Congress to pass special laws confer-
the privilege of pre-emption upon such settlers. But these laws were
of a temporary nature, in fact relief bills applying to classes of set-
s. The right of pre-emption was conferred upon all qualified settlers
the pre-emption act of 1841, but the right was confined to surveyed
ls. In 1853 the right of pre-emption was extended to unsurveyed
ls. The pre-emption law was the first general law for the disposal
he public lands in the interest of actual settlers, and was a great im-
vement upon any previous legislation providing for the sale of the
lic domain. It has greatly aided in the marvelous development of
Western States and Territories. The homestead law which was
sed in 1862, contained in the provision for the commutation of a
nestead entry the essential features of the pre-emption law, and we
e had since that date a dual system for the sale of the public lands

suitable for agricultural purposes to actual settlers, employing two sets of machinery, two agencies of adjustment and duplicate records, and the only result to be obtained by continuing the two systems is to permit one person to acquire 160 acres of land under each of the acts.

Your committee is of the opinion that the time has come when the right of a person to acquire title from the Government to the agricultural lands should be restricted to 160 acres.

Another reason for the repeal of this law is the alarming increase of fraudulent claims under it in late years, owing to the greater demand for, and increased value of, the lands, the discontinuance of public sales, and the withdrawal of lands from private entry.

The law can be made, and, in spite of the vigilance of the officers of the general and local land offices, is made the means of acquiring the public lands fraudulently. It has been said that the fault is in the execution of the law and not in the law itself, but your committee is of the opinion that the law itself contains such inherent defects that fraudulent entries, and the fraudulent procuring of title under it, cannot be wholly prevented. So long as it was the practice of the Government to offer the public lands at public sale, and large tracts of valuable lands were subject to private entry, and lands were of comparatively little value, there was little inducement to evade the pre-emption law and to secure the public lands under it for speculation, although, undoubtedly, frauds under this law, as well as under all other laws for the disposal of the public domain, were more or less frequent from the date of its passage. It was natural, also, that less attention should have been given in the administration of the law to the question of the good faith of the settler, and less strictness should have been required in the proofs of the performance of the conditions of the act at a time when the policy of the Government was to sell as much of the public lands and get as much revenue out of the public domain as possible, than after the policy of the Government changed and the public lands began to be administered with a view to securing their settlement and occupation—to their becoming the homes of American citizens, and not as sources of revenue to the Government.

We adopt the following, quoted from Report 1544 from the House Committee on the Public Lands at the first session of the present Congress, to accompany the bill under consideration:

Whole townships of the public domain have been acquired under this law by capitalists who do not reside within hundreds of miles of the land, and never did. They have secured them through paid agents in their employ, who receive so much for their services when they make the proof necessary to entitle them to a patent from the Government, and assign their claims to their employers. This is done, of course, through perjury and subornation of perjury. For each one of these agents or claimants is required to make settlement on the pre-emption claim under the law, and he must make oath before the register or receiver of the land district in which the lands are situate, on which he claims to have settled for the purpose of pre-emptiug, and that he has never had the benefit of any right of pre-emption; that he has not settled upon and improved such land to sell the same on speculation, but in good faith to appropriate it to his own exclusive use, and that he has not directly or indirectly made any agreement or contract in any way or manner with any person whatsoever by which the title which he might acquire from the Government of the United States should inure, in whole or in part, to the benefit of any person except himself. And yet it is well known that this oath is daily taken by parties who make it under contracts such as we have indicated above. They file with the register of the proper land district their declaration, make their proof, affidavit, and payment required by the law, and receive their title, and transfer the same to the parties with whom they made the contract before they attempted to make the pre-emption.

The Commissioner, in his last annual report, speaking of this law, says:

"In my last annual report I renewed the recommendation frequently made by my predecessors that the pre-emption law be repealed. Continued experience demon-

the advisability and necessity of such repeal. The objection that much good etofore resulted from the pre-emption system, and that it should not be disied because abused, appears to us without good foundation under the changed ons created by the homestead laws."

ır committee is therefore of the opinion that the pre-emption law d be repealed, saving vested rights and permitting all bona fide s initiated under the law before the passage of this bill to be perl in the same manner as if the law had not been repealed.

## REPEAL OF THE TIMBER-CULTURE LAW.

tion 2 of the bill, as it is proposed by the committee to amend it, des for the repeal of the act of June 14, 1878, known as the timılture act. The Secretary of the Interior and the Commissioner e General Land Office have, in two successive annual reports recnded the repeal of this law. It is the opinion of your committee the law is a failure; that the beneficial results which were exd from the operations of the law have not been secured.

ı law is mainly taken advantage of by those who have exhausted rights under the pre-emption and homestead laws. Claims in great ers are taken under this law without the intention upon the part ı claimant to comply with its provisions, and held against settlers homestead and pre-emption acts for speculative purposes, and in cases where an attempt is made to comply with the conditions ı act the compliance is perfunctory, the objects of the settler being ure title to the lands and not the cultivation of timber, and the r cultivated is of no real value. In short, the law appears to be practical value.

ı Secretary in his last annual report recommended the repeal of ıw in the following forcible language:

ıy last annual report I called attention to the abuses flowing from the operations act. Continued experience has demonstrated that these abuses are inherent law, and beyond the reach of administrative methods for their correction. uent on the land is not required. Even residence within the State or Territory ch the land is situated is not a condition to an entry. A mere entry of record he land for one year without the performance of any act of cultivation. The r act of breaking five acres, which can be done at the close of the year as well he beginning, holds the land for the second year. Comparatively trivial acts for a third year. During these periods relinquishments of the entries are sold estead or other settlers at such price as the land may command.

information leads me to the conclusion that a majority of entries under the -culture act are made for speculative purposes, and not for the cultivation of . Compliance with law in these cases is a mere pretense, and does not result production of timber. On the contrary, as one entry in a section exhausts the -culture right in that section, it follows that every fraudulent entry prevents *fide* one on any portion of the section within which the fraudulent entry is made. ormation is that no trees are to be seen over vast regions of country where timture entries have been most numerous.

in, under the operation of the pre-emption, homestead, and timber-culture laws e person may enter 160 acres in each class of entry, making a total of 480 acres may be taken by one person.

in the case of the pre-emption law no vested rights under the timılture law will be destroyed by the bill if it is passed. All claimınder the law who have taken the initiatory steps to secure title ı date of the passage of the bill will be authorized, notwithstanding epeal of the law to comply with its conditions and perfect their

## DESERT LANDS.

Experience has demonstrated, as will appear by reference to the official reports of the officers of the Government charged with the execution of the act entitled "An act to provide for the sale of desert lands in certain States and Territories," approved March 3, 1877, commonly known as the Desert Land Law, that that act, instead of securing the settlement and reclamation of the desert lands by actual settlers, is made the means of securing, by collusive entries and by evasion of the law, possession of large quantities of public lands, of obtaining fraudulent title to agricultural lands as desert lands, and of preventing the settlement of the public domain.

The Commissioner of the General Land Office, in his annual report for 1884, presents the following exhibit of the operation of this law, and recommends its repeal. He says:

> Two thousand four hundred and twenty-nine desert-land entries were made, embracing 951,807.92 acres, an increase over the previous year of 1,175 entries and 515,174.23 acres. Final proof was made on 308 entries, embracing 59,898.09 acres.
>
> Final proof and payment have not been made in a large proportion of entries heretofore recorded under this act. Hearings in contested cases and examinations by special agents have disclosed a want of any attempt to irrigate the land in many instances, that desert entries are frequently made of lands not desert in character, and that the purpose of the law in offering inducements for the reclamation of otherwise uncultivatable land is not largely achieved in the operation of this act, but on the contrary the conditions of the act are not fulfilled, while wholesome restrictions as to the character of the land authorized to be entered, and the quantity to which title may lawfully be acquired by one person, are habitually evaded. It is found that lands taken up under this act are often used for stock-grazing, and that possession by single persons and corporations over quantities of land is obtained by collusive entries. Lands in valleys and along water-courses are appropriated ostensibly for reclamation, but actually for the purpose of controlling ranges dependent upon the water-supply and to prevent settlements interfering with such control. If the public lands are to be preserved for actual settlement, and unlawful appropriations of great areas are to be prevented, the desert-land act should be repealed.

Your committee therefore recommends the repeal of the said act of March 3, 1877, and with an amendment to the House bill saving vested rights under the act.

## AMENDMENTS TO THE HOMESTEAD LAW.

Two amendments are proposed to the homestead law. The first amendment is proposed by way of proviso to the first section of the bill, and is intended to give persons who have not received the benefit of the homestead law and who have entered upon land under that law intending to secure title to the same by a compliance with its conditions and for any reason have failed to secure their title and who would be entitled to take a pre-emption claim, if the law should be continued in force, the right to take another homestead. The provision appears to be just, and meets an objection which has been urged against the repeal of the pre-emption law, namely, that the pre-emption law permits persons who have lost their right to a homestead to secure a home out of the public domain.

The second amendment is the one proposed by section 3 of the bill, which provides for the amendment to section 2301 of the Revised Statutes, and which has been hereinbefore referred to.

There is a rapidly growing sentiment in this country that all the laws providing for the disposal of the public lands suitable for agricultural purposes, except the homestead law, should be repealed, and that the

ublic domain should hereafter be reserved for homes for settlers under hat law.

Your committee is of the opinion that this should be in the future the olicy of the Government in administering the public domain.

The agricultural lands are being rapidly taken up. The most valuable and desirable lands, even in the Territories most remote from the ensely populated portions of the Union, are already occupied. Under he present pre-emption, homestead, and timber-culture laws one person may become the owner of 480 acres of the public domain, and under he several laws authorizing the disposal of the public lands—agricultural, timber, and mineral lands—one person can acquire title from the Government to 1,120 acres.

If settlers are hereafter restricted to the right to acquire title to 160 acres of the public land, suitable for agricultural purposes, it will be, comparatively speaking, but a few years until all the lands suitable for homes in all the States and Territories will be exhausted. Upon this subject of the future disposal of the public lands the honorable Commissioner of the General Land Office, in his report for the year 1884, has presented some very valuable facts and suggestions which are quoted with approval by the honorable Secretary of the Interior in his report, and which we here reproduce. The Commissioner says:

The surveyed public lands of the United States have largely been disposed of, or appropriated by various claims under general laws, or pledged for the satisfaction of educational, internal improvement, or other public grants. The total area surveyed from the commencement is 938,940,125 acres. The estimated area unsurveyed, exclusive of the Territory of Alaska, is 506,495,454 acres. This estimate is of a very general nature, and affords no index to the disposable volume of land remaining, nor to the amount available for agricultural purposes. It includes Indian and other public reservations, unsurveyed private land claims, the sixteenth and thirty-sixth sections reserved for common schools, unsurveyed lands embraced in railroad, swamp land, and other grants, and the great mountain areas, and areas of unsurveyed rivers and lakes. Deducting these, and areas wholly unproductive and unavailable for ordinary purposes, and the volume of remaining land shrinks to comparatively small proportions. The time is near at hand when there will be no public land to invite settlements or afford citizens of the country an opportunity to secure cheap homes.

* * * * * * *

In the early history of the country, when the broad expanse of the public domain was unsettled, a liberal system of laws was adopted providing for an easy acquisition of individual titles, and even down to later periods the object apparently sought to be accomplished in the purpose of the laws and the policy of their administration was for the United States to hasten the disposal of its lands. With this purpose in view and abundant areas everywhere open to settlement, no special safeguard against appropriations in fraud of law appears to have been thought of or deemed necessary. On the contrary, the prevailing tendency of legislation has been to remove restrictions rather than to impose them, and acts have been passed primarily for the relief or benefit of actual settlers which have been availed of to the defeat of settlements by the facility afforded for the aggregation of land titles in speculative or monopolistic possession.

The numerous methods of disposal now existing, and the laxity of precautionary provision against misappropriations, are resulting in a waste of the public domain without the compensations attendant upon small ownerships for actual settlement and occupation.

It is my opinion that the time has fully arrived when wastefulness in the disposal of public lands shall cease, and that the portion still remaining should be economized for the use of actual settlers only. An act reserving the public lands, except mineral lands and timber reserves, for entry exclusively under the homestead laws, and amending the homestead law so as to prevent the present easy evasion of wise restrictions and essential requirements, would be a measure meeting this end, and answering a pronounced public demand.

The practical exhaustion of our public domain will force upon the attention of the people of this country new, important, and difficult ques-

tions, and, in the opinion of your committee, the time when our rapidly increasing population, instead of being able to take up homesteads upon the public lands and make homes for themselves, shall be compelled to find homes in our over-crowded cities, should by wise legislation be postponed as long as possible.

Your committee therefore recommends that, when amended as heretofore specified, the bill do pass.

8TH CONGRESS, 2d Session. | SENATE. | REPORT No. 986.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 13, 1885.—Ordered to be printed.

Mr. CAMDEN, from the Committee on Pensions, submitted the following

## REPORT:

*The Committee on Pensions, to whom was referred the petition of Mrs. Kate M. Smith, asking for a pension as the widow of Maj. Edward W. Smith, United States Army, respectfully report:*

Your committee, having carefully examined the petition and accompanying papers, report that Major Smith was a commissioned officer of the United States Army from 1861 till the time of his death in May, 1883, with a most favorable record as a gallant and meritorious officer during all that time, without any record of sickness prior to his death. The application for pension was rejected by the Commissioner of Pensions on the ground that Major Smith died from "chronic alcoholism," and not from any disease contracted in the Army, and in the line of duty. The records show the death of Major Smith was from chronic alcoholism, and the special report of L. M. Maus, surgeon United States Army, shows specifically that the cause of death of Major Smith was the result of chronic alcoholism, and neither the petition nor any of the papers filed seek to controvert the fact that the officer did die from chronic alcoholism.

Your committee are of the opinion that under the circumstances the petitioner is not entitled to relief, and ask to be discharged from the further consideration of the same.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 987.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 13, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 1571.]

*The Committee on Pensions, to which was referred the bill (S. 1571) granting a pension to James McCallen, has examined the same, and reports:*

That the said McCallen enrolled on the 22d day of October, 1864, at Marysville, Cal., as a private in Company B, Seventh Regiment, California, for the term of three years, and was mustered out with the company April 26, 1866. He alleges that while in the said service, and on or about the month of November, 1864, he contracted a disease of the throat which has continued to the present, affecting his general health and causing the partial loss of his voice. On account of this alleged disability he applied for a pension. His application has been declared inadmissible for the reason, as stated by the Commissioner of Pensions, that it lacks medical evidence showing existence of alleged disability in the service or at discharge. This the claimant has declared under oath he cannot do; but he does prove that he was a sound and able-bodied man when he entered the service, and the morning report book of the company for November 14, 1864, shows him to have been sick in quarters, and November 16 sent to hospital; and the report from the hospital records, furnished by the Surgeon-General's Office, verifies this, although it does not state the character of sickness claimed by the claimant, but states it to have been intermittent fever. He proves the incurrence of the disease in the service by the testimony of three comrades, two of whom state that he caught cold by exposure lying on the wharf at San Francisco, Cal., the company being detained there under orders. The testimony traces the claimant from time to time and in different places and sections of the country from 1866, when he was mustered out, as hereinbefore stated, down to as late as August, 1883, and shows the continuance of the disease for which he claims a pension, and the committee does not doubt its incurrence as claimed by him. The examining surgeon of the Department reports him in September, 1881, as suffering from the same cause, and rates his disability at three-fourths total.

In the judgment of the committee the said James McCallen is entitled to a pension, and it therefore reports the bill to the Senate, recommending its passage.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 988.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 13, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 1162.]

*The Committee on Pensions, to whom was referred the bill (S. 1162) granting a pension to Francis A. Liebschutz, has examined the same, and reports:*

That this bill does not propose to grant an original pension, but to revive the rating fixed from time to time by the Commissioner of Pensions, who, in his letter transmitting the papers in the case to the committee, says:

The soldier was pensioned March 8, 1864, for gunshot wound of right arm, at $6 per month from May 1, 1863, the date of his discharge; at $8 per month from February 5, 1867; at $15 per month from February 6, 1872; at $18 per month from June 4, 1872, until May 23, 1876, when the pension was reduced to $8 per month, which action has been confirmed by the Hon. Secretary of the Interior, and increase denied.

The bill, in addition to the proposition to revive this rating, proposes to increase the pension from $8 per month to $18 per month from June 4, 1872, and to establish it at that rate for the future.

The case is one of no inconsiderable merit. If it were before the committee as an original case it would be inclined, on the proofs presented, to considerably increase the present rate of the pension, and might go to the extent of the proposed $18 per month. But in view of the fact that the pensioner may apply for an increase under existing law, it is deemed best that he should pursue that course, and let the Commissioner of Pensions, upon such additional proofs as may be presented, and a re-examination by the examining surgeons, determine the rate of increase to be allowed. The bill is, therefore, reported adversely, and the committee recommend that it be indefinitely postponed.

JANUARY 13, 1885.—Ordered to be printed.

DEN, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 6816.]

mmittee on Pensions, to whom was referred the bill (H. R. ıting increase of pension to Nathan J. Sharp, having carefully the bill and accompanying papers, report that the House re- ıis case sets forth fully and correctly the claimant's applica-

mmittee adopt the report of the House committee, and rec- he passage of the bill, with the following amendment: In line ıe words "per month," add the words "in lieu of the pension receiving." The report is as follows:

*ee on Invalid Pensions, to whom was referred the bill (H. R. 6816) for the relief athan J. Sharp, having considered the same, make the following report:*

ioner enlisted in the service of the United States on the 14th of August, rivate in Company E, One-hundred-and-twentieth Regiment New York ıteers, and was discharged on the 8th of June, 1865. On the 27th of Octo- e received a gunshot wound in the left eye, which passed back of the nose, troying the eye, and damaging the sight of the right eye so that it is very almost useless. The disability was received at the battle of Hatcher's of Petersburg, Va.

was pensioned at $8 per month, January 29, 1866, which was increased to 1866; to $18 per month, June 4, 1872; and to $24, commencing March 3, disability and the hideous disfigurement consequent upon the wound, and ity of the claimant to perform manual labor is best set forth in the several ıe examining surgeons herewith appended.

xamining surgeon, under date of July 5, 1865, says:

l entered the left eye, passed under the nose, and lodged under the right

Again, September 5, 1879, Dr. Otis says:

"A ball entered the left eye, passing obliquely through and lodging under the other one. The right eye is much injured by sympathy with the left. Has much pain through the wound. Looks feeble."

J. L. Hasbrouck, examining surgeon, under date of July 28, 1879, says:

"Mr. Sharp is suffering from gunshot wound, affecting both eyes. The ball entered the outer canthus of the left eye and passed nearly horizontally through the eye and nose, lodging under the right eye in the socket, or malar bone. It remains there to this day. The left is completely destroyed. The nasal bones are crushed and much distorted. The right eye is almost useless from chronic inflammation; so much so that he can no longer distinguish objects. The capsule of its lens presents a milky appearance. A cataract is evidently forming, which, in my opinion, will culminate in total loss of vision. *The deformity is hideous* and *loathsome* to behold. His employment was that of foreman in a tannery. Is unable to hold the position for loss of vision. Habits are good throughout. I recommend a liberal increase under the law."

The committee are of the opinion that this is a case entitled to an increased pension. The examining surgeons are clearly satisfied that the soldier must soon be totally blind. In fact, it is shown by the last surgeon, whose statement is given, that he was at that time unable to distinguish objects.

The committee recommend the passage of the bill, with this amendment: Strike out the word "fifty," in line 6, and insert "forty."

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48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 990.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 13, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 362.]

*The Committee on Pensions, to whom was referred the bill (S. 362) granting a pension to Abraham H. Burkholder, having examined the same, respectfully report:*

That the said Abraham Burkholder, late private in Company I, Eighty-eighth Ohio Volunteers, on the 5th day of September, 1881, filed his application for pension in the Pension Office, alleging as the basis of his claim disease of pluera, the result of pluero-pneumonia contracted in the service. This claim was pending when the present bill was introduced for his relief. After thorough investigation of the case the claim was allowed by the Pension Office on the 24th October, 1884, and the claimant was pensioned at the rate of $4 per month (that being the rating of his disability) from September 5, 1881. The bill proposes to pension him at the rate of $8 from the 21st day of March, 1864, the alleged date of contracting disability.

Your committee have steadily refused to recommend such relief. There is no reason why this claimant should be granted *arrears* which does not apply equally to every claim filed since July 1, 1880. There is nothing in the papers to make this case an exception to the general rule, and your committee accordingly recommend that the bill be indefinitely postponed by the Senate.

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48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 991.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 13, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 760.]

*The Committee on Pensions, to whom was referred the bill (S. 760) for extension of pension of Mrs. Ann Liddy, having examined the same, respectfully report:*

That in March, 1874, the said Ann Liddy filed her application for pension as the widow of Thomas Liddy, late captain of Company B, Sixty-ninth Regiment New York Volunteers, alleging as the basis of her claim that her said husband died "at Fernandina, Fla., on the 13th October, 1873, from the effects of lung and heart disease, produced by gunshot wounds received while he was in said service" of the United States. After investigation the claim was rejected, on the ground that the evidence did not show that the cause of death had its origin in the service. The widow then applied to Congress for relief, and by special act approved August 5, 1882, she was placed upon the pension-roll at the rate of $20 per month from the date of said act. The present bill proposes to give her arrears by making her pension commence and be paid to her from and after the death of her husband (Captain Liddy), October 13, 1873.

Congress has once acted upon the case, and granted such relief as was deemed proper in the premises. Nothing new or additional in the shape of evidence is produced, and this additional relief is sought upon the same state of facts on which Congress has once acted.

Your committee think it would be bad policy, productive of much evil, to favor such repeated appeals to Congress, and they have steadily refused to grant relief a second time in cases like the present. They accordingly recommend that the bill be indefinitely postponed by the Senate.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 992.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 13, 1885.—Ordered to be printed.

Mr. SLATER, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 5960.]

*The Committee on Pensions, to whom was referred the bill (H. R. 5960) granting a pension to George Ziefle, have examined the same and report as follows:*

George Ziefle was not an enlisted man, but was temporarily in the service of the United States, under and in obedience to a call of General Fisk of July 20, 1864, to the "loyal men of Northwest Missouri" to arm and protect the country from the marauding bands of "Confederate guerrillas" which then infested that section. The call was made by telegraph, and is found among the records of the War Department. In part the call is as follows:

AN APPEAL TO THE LOYAL MEN OF NORTHWEST MISSOURI.

Five thousand true and loyal men, with each a horse and such arms as they may have or can procure, and ammunition therefor, are hereby requested, without delay, to rally for the protection of life and property and the extermination of the Confederate guerrilla hordes that invest Northwest Missouri.

The emergency for the force is so great that I deem it fatal to your best interests to delay the call until details can be made by the State authorities or United States troops be transferred from another district to this. Your neighbors are being murdered and their property given to the torch. Hundreds of widows and orphans are fleeing to military posts. Hundreds of Unionists are daily pleading at my headquarters for protection that I am unable to afford from the limited force at my command. * * * Requisitions upon the State and national authorities have been made for troops, and so soon as they are filled the necessity for this organization will cease.

* * * * * * *

CHRISTIAN B. FISK,
*Brigadier-General.*

George Ziefle volunteered under this call, and joined a company under the command of A. J. Stewart, which company was under the command of Lieutenant-Colonel Swain, of the Fourth Provisional Regiment E. M. M. Lieutenant-Colonel Swain was stationed at this time at Chillicothe, Mo., which place was threatened by the rebel general Thornton. Swain called upon General Fisk for additional troops, and in addition to the general call above referred to received the following telegram, as shown by the records in the War Department:

SAINT JOE, *July* 20.

Lieutenant-Colonel SWAIN,
*Chillicothe, Mo.:*

I cannot send troops from this post, as I have none here. Call out the militia *en masse* with whatever arms they may have, and organize a chase after Thornton. We

have no troops, and must do the best we can. Will there be any response to my appeal in your section? The guerrillas are increasing. Colonel McFarron telegraphs me from Lexington that Thornton is aiming for Chillicothe, but I think not. How much force can you concentrate after him?

CHRISTIAN B. FISK,
*Brigadier-General.*

To which telegram Swain answered by telegram of same date that he had sent out about one hundred and twenty men, would send five or six hundred stands of arms and ammunition; and in a second telegram that a scout had just reported to him that about one hundred and fifty more armed men had joined than sent out, making about two hundred and ninety or three hundred who were then after Thornton, and that he had had plenty of force. That he had two hundred citizens under arms to defend the city.

Lieutenant-Colonel Swain, in his affidavit, properly sworn to, says that George Ziefle was a member of Capt. A. J. Stewart's company, and under his command, and that he ordered him (Stewart) to watch the fords of Grand River, with other approaches leading to the town of Chillicothe from the south; that while out upon said scouting expedition Ziefle was severely wounded in the shoulder and side; and that he has known him well ever since, and knows that the result of said wound has been to totally unfit him for the performance of any manual labor whatever, and that he has always been a man of good character.

Capt. A. J. Stewart testifies under oath that he was in command of a company of men at the time and place and under the circumstances stated; that George Ziefle was a member of his company and accompanied him on his scout; that on the morning of July 21, 1864, when Ziefle went to mount, his horse became unmanageable, causing his gun to be accidentally discharged, the contents of one barrel lodging in his left shoulder; says he was within a few feet of him at the time and among the first to assist him; detailed two men to attend to him and take him back to the post; says the wound was severe, the gun being loaded with buckshot at the time of its discharge; has been acquainted with Ziefle since.

Thomas W. McArthur, a physician, testifies under oath that he was called to attend Ziefle in July, 1864; found him suffering from gunshot wound; found a number of No. 3 buckshot in the left shoulder. The shot had entered near the armpit and ranged upward through the shoulder joint; in course of the treatment removed several pieces of bone and six buckshot. The wound resulted in anchylosis of the shoulder joint. His left lung has been seriously affected, and he is rendered entirely unable to perform any manual labor. Dr. C. A. Williams testifies to substantially the same facts.

The identity of Zeifle is very clearly shown; his service and the incurring of the disability is fully established. The only point against him is the fact that he was not mustered into the service and was called into it in the irregular way described; but your committee believe that in this case these facts should not be held to bar his claim. It is certain that he was serving at the call of the regular and constituted officers of the Army, and, being wounded while in snch service, that he is fairly and equitably entitled to a pension, and therefore your committee recommend that the bill be passed.

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›NGRESS, } SENATE. { REPORT
ssion. } { No. 993.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 13, 1885.—Ordered to be printed.

CKRELL, from the Committee on Military Affairs, submitted the following

# REPORT:

[To accompany S. Res. 99.]

*mmittee on Military Affairs, to which was referred S. Res. 99, have duly considered the same, and submit the following report:*

nilar resolution (S. Res. 18, Forty-seventh Congress, first session) ssed by the Senate on April 6, 1882, but no action was had in ›use.

n that resolution your committee made the following report:

committee referred the joint resolution to the Secretary of War for informa- l the views of his Department as to the propriety of passing the said resolu- d received the following reply, to wit:

WAR DEPARTMENT,
*Washington, D. C., February* 12, 1880.

M. COCKRELL, *United States Senate:*

In reply to yours, inclosing Senate resolutions in reference to the return of the of the State of North Carolina, I have the honor to say that there is no definite e on file going to show how these records came into the possession of this De- ıt, but it is believed they were captured by the forces of the United States the records of the Confederate Government.

records consist of two (2) letter-books, demy size, containing 709 pages of written matter.

contain correspondence with the Confederate States authorities on a variety s, mostly military, with officers of the conscript service, with private persons, icers and agents of the State engaged in furnishing supplies at home and with officers of North Carolina troops and civil officers of the State; also ıations, notices of elections, appointments, orders, &c.

ıese treat on a great variety of subjects, mostly military, and show the rela- the State to the Confederate States and the part she took in the war, and ıe period from September 6, 1862, to March 18, 1865.

py these books would require the services of a copyist not less than three which, at $75 per month, the usual price, would amount to $225, to which the cost of necessary books would make the expense not less than $250.

opinion these original books should remain in this Department, and if copies le the latter should be furnished to the State of North Carolina, for the fol- reasons:

ey pertain to the history of a State in rebellion against the Federal Govern- nd all such records are as properly subject to capture as those of the Confed- ates, since the majority of their contents pertains to subjects bearing on the ıance of that rebellion.

ey have been used before high judicial tribunals, where copies would not be d, in defeating large claims against the United States. They may be needed purpose again.

ery respectfully, your obedient servant,

ALEX. RAMSEY,
*Secretary of War.*

Your committee find that it is important that the executive department of the State of North Carolina should have complete records of the action and proceedings of each of the executives of the State, and that the letter-books referred to in the resolution contain the official actions of the then executive of the State from September 6, 1862, to March 18, 1865, an important period in the history of the State, and that the State has now neither duplicates nor copies of said letter-books, and its record of executive actions and proceedings for the period named is incomplete.

Your committee also find that it is highly important to the best interests of the General Government that the original letter-books referred to should be kept in its archives for many purposes and reasons. And, further, that in order to complete the record of the State, duly certified copies of said letter-books should be furnished to the executive department of said State, and the originals be retained in the War Department of the General Government, and that the cost of copying the same will not exceed $250 to $300.

Your committee find the foregoing report to be true and correct, and that the resolution should be passed.

Your committee therefore report the same back to the Senate, and recommend its passage.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 994.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 13, 1885.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

# REPORT:

[To accompany bill S. 2426.]

*The Committee on Military Affairs, to which was referred the bill* S. 2426, *have duly considered the same, and submit the following report:*

It is understood that this bill is intended to enable the President to appoint and place on the retired list John Hollins McBlair and probably another.

During the last session a bill for the relief of said McBlair was pending, and was referred to the Secretary of War, and a full history of said McBlair was obtained, as follows:

WAR DEPARTMENT,
*Washington City, June* 12, 1884.

SIR: The Department duly received your letter of the 27th ultimo, inclosing a copy of S. 2233, "A bill for the relief of Lieutenant John Hollins McBlair," and requesting to be furnished with a record of his services in the Army, and of his discharge or dismissal therefrom, giving all the proceedings and any subsequent application for reappointment or restoration made by him, &c.

In reply, I have the honor to invite attention to the inclosed report of the Adjutant-General, dated the 7th instant, and its accompanying papers, which, it is believed, afford the desired information in the case.

Very respectfully, your obedient servant,

S. V. BENÉT,
*Brigadier-General, Chief of Ordnance, and Acting Secretary of War.*

Hon. F. M. COCKRELL,
*Of the Committee on Military Affairs, United States Senate.*

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HEADQUARTERS OF THE ARMY,
ADJUTANT-GENERAL'S OFFICE,
*Washington, June* 7, 1884.

Statement of the military service of John H. McBlair, jr., of the United States Army, compiled from the records of this office:

He was appointed first lieutenant Fifteenth United States Infantry May 14, 1861.

He served with his regiment at Newport Barracks, Ky., from July, 1861, to September, 1861; was *en route* to and in the field in the Department of the Ohio to October, 1861, and sick with regiment to November 18, 1861; on sick-leave and surgeon's certificate of disability to June 13, 1862; on duty in the office of the Commissary-General of Subsistence to some time in August, 1863, when ordered before retiring board in New York City.

He was wholly retired on account of incapacity for active service in the field, said incapacity not resulting from any incident of service, by paragraph 12, Special Orders No. 447, War Department, Adjutant-General's Office, October 6, 1863. This order was revoked, and he was retired for disability resulting from long and faithful service, or

some injury incident thereto, to date October 6, 1863, by paragraph 34, Special Orders No. 143, War Department, Adjutant-General's Office, April 9, 1864.

He was on duty in the office of the Commissary-General of Subsistence from May 20, 1864, to April 1, 1866; unemployed to May 4, 1866; on duty as acting aide-de-camp on the staff of General Howard, Commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands, from May 5, 1866, to December 31, 1868, and on duty at the headquarters of that Bureau to February 21, 1870; since the latter date has not been employed on any military duty.

R. C. DRUM,
*Adjutant-General.*

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ADJUTANT-GENERAL'S OFFICE, *January*, 1884.

SIR: I have the honor to return herewith the letter of May 27, 1884, from Hon. F. M. Cockrell, of the Senate Committee on Military Affairs, who incloses Senate bill 2233, authorizing the President "to appoint John Hollins McBlair a first lieutenant in the Army, and to restore him to the retired list as of the date he has heretofore borne on said list," with request for information of record in the case, and a statement of the reasons, if any exist, why the bill should become a law.

First Lieut. John H. McBlair, Fifteenth United States Infantry, was, upon the finding and recommendation of a retiring board, wholly retired from the service, by direction of the President, October 6, 1863, for incapacity reported by the board to be not incident to the service, under the provision of section 17, act of August 3, 1861, and the vacancy thus created was filled. Subsequently the President, upon a review of the case, directed that the order wholly retiring Lieutenant McBlair be revoked, and that his name be placed on the retired list, to date October 6, 1863. This was done by an order of April 9, 1864, six months after being wholly retired, since which date the name of Lieutenant McBlair has been, and is still, borne upon the Army records and register as a first lieutenant, retired.

It appears that this officer recently presented a claim for arrears of longevity pay; that in the consideration of this claim by the accounting officers of the Treasury, the question as to whether or not he was legally restored to the Army by the President's order of revocation of April 9, 1864, was referred by the Treasury Department to the Court of Claims, and that the court has decided, in effect, that Lieutenant McBlair was *not* legally restored. I inclose herewith a statement of Lieutenant McBlair's military service, a printed copy of the decision of the Court of Claims, above referred to, in which will be found the finding of the retiring board, the orders of retirement and revocation, the indorsement of President Lincoln upon which the order of revocation was based, &c.

It is proper to add that this office has not received orders to drop Lieutenant McBlair from the register.

Very respectfully, your obedient servant,

R. C. DRUM,
*Adjutant-General.*

The Hon. SECRETARY OF WAR.

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The decision of the Court of Claims referred to in the letter of General Dunn is printed in Senate Report No. 688, Forty-eighth Congress, first session, and only conforms to or enunciates well established legal principles.

It is very clear that by the order of the President of October 6, 1863, wholly retiring McBlair from the service, he became a civilian and could only again become an officer in the Army by appointment by the President and confirmation by the Senate; and that the order of the President of April 8, 1864, was not an appointment in the Army, and was not made with the advice and consent of the Senate.

Had the President on that day nominated Lieutenant McBlair with the view of retirement, and had sent the nomination to the Senate, the Senate would doubtless have confirmed such nomination, and Lieutenant McBlair would have been placed upon the retired list with rank and pay from that date, and this is all that in justice or right he is entitled to.

Your committee have not before them the facts and record touching any other person, and deem it best to confine action to the case of McBlair.

ır committee recommend that the bill be indefinitely postponed, ıe following bill be reported and passed:

A BILL for the relief of John Hollins McBlair.

reas John Hollins McBlair, late a first lieutenant in the Fifteenth United Infantry, was, by order of the President, dated October six, eighteen hundred xty-three, wholly retired from the service, and was afterwards, on or about ighth, eighteen hundred and sixty-four, ordered by the President to be retired ability, incident to the service, and to be placed upon the retired list, to date r six, eighteen hundred and sixty three, and was borne upon such retired list gularly paid as such retired officer up to the date of the decision of the Court ıns; that the order of the President of April eighth, eighteen hundred and sixty- ttempting to revoke the order of October sixth, eighteen hundred and sixty- wholly retiring him, and to restore him to the retired list, was not operative: ore

*enacted by the Senate and House of Representatives of the United States of America ıress assembled*, That the provisions of law regulating appointments in the ›y promotion in the line are hereby suspended for the purposes of this act only, ly so far as they affect John Hollins McBlair; and the President can, if he so in the exercise of his own discretion and judgment, nominate and, by and with ·ice and consent of the Senate, appoint said John Hollins McBlair, late a first ınt in the Fifteenth United States Infantry Regiment, to the same grade and first lieutenant in the Army of the United States in the infantry service, and › him upon the retired list of the Army as of the date of April eighth, eight- ıdred and sixty-four.

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'ONGRESS, } SENATE. { REPORT
Session. } { No. 995.

IN THE SENATE OF THE UNITED STATES.

JANUARY 14, 1885.—Ordered to be printed.

[EFFIELD, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill S. 2046.]

Moore claims from the United States $25,000 for expenses incurred
amages sustained by him in connection with his contract with the
l States for the improvement of the harbor of Vicksburg, Miss.

## FACTS.

t. William L. Marshall, of the United States Engineer Corps, Oc-
30, 1882, advertised for proposals for dredging Vicksburg Har-
The contractor was required to begin the work on or before De-
r 15, 1882, and to complete it on or before September, 1883. The
ition of the contractor set forth that the contractor made his
ition "with full knowledge of the kind, quantity, and quality of
edging required."
contractor agreed to enter into a contract for the execution of the
within ten days after he received notice of the acceptance of his
al. The proposal was to be presented on or before November 30,
For some cause the contract was not signed until January 27,
The amount of dredging to be done by the contractor was not to
l, according to his statement, 450,000 yards.
contractor stated to Captain Marshall that he would commence
rk on February 1, 1883, but he did not commence the work until
1, 1883.
contractor commenced the work and prosecuted the same up
tember 17, 1883, or thereabouts, and excavated 407,000 yards,
ich quantity he was fully paid according to the terms of his con-
at the rate of 12.1 cents per yard.
tember 17, 1883, the assistant engineer overseeing the work ad-
d a letter of which the following is a copy:

UNITED STATES ENGINEER OFFICE,
*Vicksburg, Miss., September* 17, 1883.

Please send me by bearer a report of what the dredge is doing. I understand
e scows are aground in the channel to the lake. See that channel is kept
Captain Marshall directed me not to dredge lower than the zero of the gauge
asin. Instruct Captain Leed to that effect.
Respectfully,

H. ST. C. COPPIE,
*Assistant Engineer.*

WILLIAM PORTERFIELD,
*Assistant Engineer.*

This notice Mr. Moore claims to have been an order for him to stop work.

September 15, 1883, Mr. Moore applied for an extension of the time within which he was to execute his contract. His application was at once forwarded to the Mississippi River Commission, who had the supervision of the work, and was not received back by Captain Marshall until October 1. They at that time came to the conclusion that the enterprise would not be successful, and they declined to advise the granting of Mr. Moore's request.

This work could be prosecuted advantageously during the season of high water in the river, which was generally between the middle of December and some time in September; during the remaining portion of the year there was not sufficient water in the river to float the dredges and scows.

The grounds of Mr. Moore's claim are: (1) The non-grant of extension of time. (2) He claims that he was wrongfully directed by the engineer to dredge out the west pass into the canal and basin, upon which his force was employed twenty-two days.

It appears that both the mud and sand in the bottom of the Mississippi by the force of currents there prevailing are subject to frequent changes, and that in fact while operations were being carried on under this contract, a bar of sand had supplanted a bank of mud in this "pass," thereby incurring the cost of dredging in this locality.

The claimant, Mr. Moore, alleges that the non-extension of time within which he was to complete his contract was due to the failure of the dredging to meet the expectations of the projectors of the enterprise.

This may be answered by saying the matter of the extension was within the discretion of the officers of the Government who had control of the work. It is quite enough to know that in the exercise of that discretion they refused to grant to Mr. Moore what he was entitled to, if at all as a mere matter of favor, and then, if the work which remained to be done was to be of no benefit to the Government, Mr. Moore could not expect these officers, without disregarding their duties to their employers, to extend to him a favor which would allow him to take money from the public Treasury without conferring any benefit on the Government.

As to the claim for being wrongly compelled to dredge the sand in the "west pass" it may be said that by the 17th paragraph of the specifications it was provided that to give access to the lake for the dredges it may be required to excavate the channel into the west arm of the lake. By specification 3 he was notified that the material to be excavated was "river silt, mud, and sand." The contract also contains this paragraph: "The party of the second part (Moore) agrees to dredge the canal and basin and the west entrance to the lake in front of the city, &c."

This claim appears to have been thoroughly examined by the Third Auditor of the Treasury, who has given an elaborate and able opinion thereon adverse to the validity of the claim, in which opinion the Committee on Claims concur.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 996.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 14, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3691.]

The Committee on Pensions, to which was referred H. R. 3691, for the relief of Joshua Shepard, has examined the same, and reports that the Commissioner of Pensions, in his letter transmitting the papers and record in this case to the committee, says:

The applicant alleges varicocele, incurred about July, 1864, at Athens, Ga. The claim has been rejected because there is no record of alleged disability and no satisfactory evidence that the same was incurred in the line of duty.

An examination of the papers, proofs, and record in the case does not disclose sufficient reasons for legislative interference with the decision of the Commissioner of Pensions. The bill is therefore reported adversely, and with recommendation that it be indefinitely postponed.

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N THE SENATE OF THE UNITED STATES.

JANUARY 14, 1885.—Ordered to be printed.

H, from the Committee on Claims, submitted the following

# REPORT:

*ittee on Claims, to which was referred the petition of Charles for relief, have considered the same, and respectfully reports:*

Government began to excavate a pit for a dry-dock at Mare lifornia, August 13, 1872, and removed 18,900 cubic yards of was then determined to do the work by private contract. nment advertised for proposals for doing the work. Charles as the accepted bidder, and on July 18, 1873, entered into a ith the Government to excavate the pit, of which the follow- py:

MURPHY'S CONTRACT.

act, made and entered into this 18th day of July, one thousand eight hun- enty-three, between Charles Murphy, of Vallejo, county of Solano and fornia, as principal, and Dwight Spencer, Nathan Coombs, and William on, all of Napa, county of Napa and State aforesaid, as sureties, parties art, and the United States, by John Rodgers, rear-admiral in the United and commandant at the navy-yard at Mare Island, California, acting un- ority of the Navy Department, and in its behalf, party of the second part— 1, That the said parties of the first part do hereby contract and engage l United States as follows, viz: That in consideration of the payments nentioned, the said parties of the first part agree to furnish at their own ense all the labor, materials, teams, provender, implements, and tools of ction required, and within ten days from the signing and execution of to undertake, with a force of not less than ten horses and carts (with the rkmen), or an equivalent thereto, the work of excavating, tunneling, and e site of the stone dry-dock now in course of building in the said navy- d work to be vigorously carried on and completed according to the ac- specifications which form a part of this contract, and to the drawings of dock, as they may be furnished from time to time by the superintendent the said parties of the first part do agree to perform all the said work in ecure and workmanlike manner, and according to the nature and require- dry-dock works that are hereafter intended to be constructed on said site cavation to be made, to the satisfaction and approval of the command- vy-yard, and in accordance with the said specifications and drawings as d all things incident thereto, which may become necessary according to d meaning thereof, although not specifically stated or described by (but e inferred from) the said specifications and drawings, the same generally each other. And should it appear that any of the works hereby intended r matters relative thereto, are not fully detailed or explained in the said s or drawings, the said parties of the first part shall apply to the superin- e dry-dock works for such further detailed explanation, and perform his t of the contract.

delay by the said parties of the first part in providing and delivering the terials, or in the advancement of the above-named works, or of a defi- rkmen, as well in respect to dismissing any unskillful workman or work- misconduct, the commandant shall be at liberty, after a written notice of the foreman or building agent, or to the aforesaid principal, to provide, se of said parties of the first part, all such materials, and employ an in- ber, or such number of workmen, at such wages as the said commandant roper; and the cost and charges incurred shall be retained out of the

contract amount, or balance thereof, which may remain due, or be recoverable as liquidated damages. The said party of the second part to be at liberty to make any deviation from or alteration in the plan, form, construction, detail, and execution described by the drawings and specifications, without invalidating or rendering void the contract.

The said parties of the first part, their foreman, or building agent, upon receiving a written order from the superintendent for that purpose, shall suspend the working and proceeding with such part or portions of work, to be specified in such order, for the due and proper execution of other work or works connected therewith, and in case of inclemency of weather, and for the prevention, as far as possible, from the flow of rain-fall or surface water into the excavation, he shall cause suitable ditches to be cut for the purpose of leading such water away from the works.

*The said parties of the first part further agree that all the excavation and tunneling of the said dry dock site with all the necessary shoring and timbering as aforesaid shall be completed within one hundred and twenty* (120) *days from the date of this contract, and the said parties of the first part further agree that the said party of the second part shall be, and hereby is, authorized to deduct and retain, out of any money which may become due to the parties of the first part, the sum of one hundred* ($100.00) *dollars per day for each and every day, Sundays and holidays only excepted, that the said works may remain incomplete and unfinished beyond the time herein stipulated for its completion. And the said parties of the first part do further engage and contract, that no member of Congress, officer of the Navy, or any person holding any office or appointment under the Navy Department shall be admitted to any share or part of this contract or agreement, or to any benefit to arise thereupon. And it is hereby expressly provided, and this contract is upon this express condition, that if any person above named shall be admitted to any share or part of this contract, or to any benefit to arise under it, or in case the parties of the first part shall in any respect fail to perform this contract on their part, the same may be, at the option of the Navy Department, declared null and void, without affecting their right to recover for defaults which may have occurred.*

And the party of the second part hereby contracts and agrees that for the full and entire completion of this contract to the satisfaction of the party of the second part, *there shall be paid to the parties of the first part by the party of the second part the sum of seventy-four cents United States currency for each and every cubic yard of materials excavated* as aforesaid, and measured in the excavation, and six dollars and eighty-seven and one-half cents United States currency for each and every lineal foot of tunneling performed as aforesaid, the said sums to be paid in the following manner: That is to say, when in the opinion of the engineer of the dry-dock one-fourth of the work is satisfactorily completed he shall cause the same to be measured, and give his certificate for the number of cubic yards excavated, and the extent of tunneling performed, upon which certificate, triplicate approved bills upon the Navy pay office at San Francisco shall be made for the said one-fourth, and eighty per centum of the amount of said bills shall be paid by the disbursing paymaster within thirty days, the remaining twenty per centum being withheld from the amount of all payments due on account of this contract, and not in any event to be paid except specially authorized by the Secretary of the Navy, until this contract shall be in all respects complied with by the parties of the first part. In like manner on the completion of one-half, three quarters, and the whole of the entire excavation, tunneling, shoring, etc., bills shall be made and payable, respectively, for the amounts of work performed.

It is further understood and agreed that in case the said parties of the first part shall fail to perform all or any of the covenants herein provided to be performed on their part, the Navy Department shall have the power to annul this contract without loss or damage to the Government, and in case of failure aforesaid, or in completing the said work at the time specified, the said Department shall have power to enter upon and complete the said work at the expense of the said parties of the first part.

CHARLES MURPHY.
DWIGHT SPENCER.
NATHAN COOMBS.
WILLIAM WILSON STILLWAGON.

JAMES DONNELLY.

JOHN RODGERS,
*Rear Adm'l, U. S. N., and Com'd't Navy Yard.*

UNITED STATES INTERNAL REVENUE,
COLLECTOR'S OFFICE, 5TH DISTRICT, CALIFORNIA,
NAPA CITY, *July 16th*, 1873.

I hereby certify that by the records of my office, and from personal knowledge, the sureties to the within contract, in default of the performance of the obligations of the principal, are, by pecuniary ability, fully able to perform the requirements of the same.

(Signed) W. C. S. SMITH,
[SEAL.] *Collector 5th Dist., California.*

SPECIFICATION.

*avating the site of the dry-dock now being constructed at the navy-yard, Mare Island, California, and general conditions on which the work is to be executed.*

he whole of the ground within the limits of the proposed dock and as ma be ary for its working space, roads, etc., must be taken out to the required widths pths as may be directed by the civil engineer in charge, and in the order to be bed by him.

he bottom of the trenches or cuttings must be carefully leveled and formed to the masonry or whatever work may be required to be placed therein. All road- r approaches and all spaces or areas to be left around the dock and which may to be excavated under this contract, must be carefully graded to such grades superintending engineer may direct.

he sides of the excavation must be shored and timbered in such manner as the ctor may think right and on his own responsibility, or slopes may be formed for ng the quantity of timber shoring and side planking, but the excavation to the and depths sh wn on the drawing, or as may be required by the masonry of ck will only be paid for.

he sufficiency of the shoring, timbering, and of all the means employed by the ctor for excavation the earth work must rest with him and he must take all the sibility of all failures from whatever cause arising, immediately remedying at his own cost.

he soil excavated or dredged from the site of the work must be removed and de- d at such point or points on the navy-yard as may be directed by the superin- g engineer, and in such manner and order, and at such grades as he may pre-

The contractor is to reserve such excavated material as the superintending er shall deem suitable for puddling and filling the coffer dam, and shall deposit ne therein, carefully preparing the said material for this portion of the work acing it in the dam as he may be directed. In like manner he shall reserve suit- aterial for the embankment within the inclosure of the coffer dam, and deposit ne as he may be directed by the superintending engineer.

case tunneling shall be required for the drainage culverts of the dock, the con- is to perform the same according to the forms and dimensions as laid down on awings, and so as to admit of the proper construction of the masonry of said cul-

Wherever necessary he is to provide suitable materials and perform all the required for timbering or shoring said tunnels. The excavated materials from nnels is to be disposed of in the same general manner as prescribed for the above- ned portions of the dock.

ll timber, clay, and other materials used by the contractor for dams and other ary purposes connected with the excavation and the tunneling must be re- by him at his own cost and charge, but no shoring or timbering necessary to the banks or tunnels shall be removed by him without written authority from erintending engineer of the work.

e expense of dams, ditches, and the means of leading water to the draining nust be borne by the contractor, as far as the draining of his own work is con- but the Government is to provide and maintain the operation of all pumping ery necessary for the drainage of the work at its own cost and expense.

l the labor, materials, teams, provender, implements, and tools of every de- n necessary for the excavation and tunneling of the said work, and shoring nbering the same, including all the necessary means for removing, depositing, ading the excavated materials, excepting the pumping machinery and its main- e, as aforesaid, are to be provided by the contractor at his own cost and charge.

he excavation will be paid for at the stipulated contract price per cubic yard ed in the cuts, and will include all removal, depositing, filling, and grading of terials, and all work connected therewith. The tunneling, including all shor- nbering, and removal of material, filling, and grading with the same, will be r at the stipulated contract price per lineal foot.

above is subject to any changes that may be made by the Bureau of Yards and before the award of contract.

rphy commenced the work and prosecuted the same until Septem- 1874, when his contract was annulled. He claimed remuneration rtain losses and damages alleged to have been suffered by him on nt of certain acts of the United States by its agents, claimed to been unauthorized by the contract, and for some alleged extra

The claim was referred by the Secretary of the Navy to Admiral Rodgers, commandant at Mare Island navy-yard, February 22, for adjudication. Admiral Rodgers, January 31, 1877, awarded

Murphy, for damages, $5,685. On March 3, 1877, Hon. George M. Robeson, Secretary of the Navy, issued the following order:

The Bureau of Yards and Docks will pay Mr. Murphy the sum awarded him in this report—five thousand six hundred and eighty-five dollars ($5,685)—if there is an appropriation available for the purpose.

Upon which order the following voucher was issued:

UNITED STATES NAVY DEPARTMENT.

*Bureau Yards and Docks, to Charles Murphy, Dr.*

(Appropriation, navy-yard, Mare Island, 1876-'77.)

| | |
|---|---|
| 1877. (Date of award, January 31.) For amount awarded by the commandant of navy-yard at Mare Island, California, as damages arising out of contract for excavating the dry-dock pit at that navy-yard, and ordered paid by the Hon. Secretary of the Navy, March 3, 1877 | $5,685 00 |
| Total | 5,685 00 |

BUREAU YARDS AND DOCKS,
*March* 3, 1877.

Approved for five thousand six hundred and eighty-five dollars, payable by the Navy paymaster at Washington, D. C.

J. C. HOWELL,
*Chief of Bureau.*

And Mr. Murphy received the amount and receipted for the same in the following words:

NAVY PAYMASTER'S OFFICE,
*Washington, D. C., March* 9, 1877.

Received of W. W. Williams, paymaster, U. S. N., fifty-six hundred and eighty-five dollars, in full of the above bill.

CHARLES MURPHY.

On March 19, 1877, said Murphy commenced suit against the United States in the Court of Claims (No. 11563) for the recovery of damages for alleged violations of said contract and unlawful restrictions and obstructions to which he was subjected by the agents of the United States in the prosecution of said work. The evidence of twenty-two witnesses on the part of the petitioner, and of six witnesses on the part of the Government, was in taken said suit, and at the December term, 1878, said court made and filed in said cause the following findings of fact and conclusion of law:

## DECISION OF THE COURT OF CLAIMS.

Court of Claims, December term, 1878.

CHARLES MURPHY *vs.* THE UNITED STATES. } No. 11563.

### FINDINGS OF FACT.

This case having been heard before the Court of Claims, the court, upon the evidence, finds the facts to be as follows:

I.

Prior to the 18th of July, 1873, the defendants commenced excavations for a dry-dock at Mare Island, in California. The excavation was to be about 500 feet long, about 150 feet wide, and about 36 feet deep. About two-thirds of it was to be in solid ground and the remainder below high-water mark. The head of the dock (or west end) was to be in the solid ground, and semi-circular, with a radius of 52 feet on the

masonry. The defendants made their said excavation in the western irregular manner, not going out fully to the lines of the intended ma- lly established. Before the said 18th day of July the said excavations defendants amounted to 18,900 yards.

II.

ossible to make the excavations for said proposed dry-dock on the eastern the tide covered, until a dam should be constructed to keep the water fendants planned a coffer-dam, which was suitable for the purpose, and erecting it prior to the said 18th day of July. The outer part of the dam tside of low-water mark, and was to run in a line substantially parallel line. It was to consist of three close rows of square wooden piles, to be ır double armed buttresses on the inner wall. This front wall was to be th the shore by wings at right angles, each wing to be constructed for a way of similar piling in three rows, but nearer the shore the work on the be diminished to two rows of lighter piling. The pile work was to be red together with iron, and the whole spaces between the rows was to be clay puddling, which it was proposed to take mainly from the pit to be

III.

l 18th day of July, 1873, the defendants had driven into place about 1,300 aid dam, and had filled in between the piles a large portion of the ma- vated by them. There then remained about 120 more piles to drive. The ich had been put in was not sufficient to keep the water out, and the time flowed in and out between the piles over about half of the site of excavation. Before the water could be pumped out it was necessary

IV.

aining piles should be put in place, and that all the puddling should be acked between the rows of piles in order to exclude the tide. This con- work was known to the claimant on that day.

t the 14th June, 1873, the defendants advertised for sealed proposals for he said dry-dock. The following is a copy of said advertisement:

NAVY-YARD, MARE ISLAND,
*June* 14, 1873.

osals, indorsed "Proposals for excavating dry-dock," will be received at lant's office until 12 o'clock noon of Tuesday, the first day of July, 1873, ation of about 90,000 cubic yards of material from the site of the dry- ard.

ctor is to furnish all necessary teams, carts, tools, labor, materials, and ecessary for excavating and shoring the pit for the said dry-dock. He is e work in such order and manner and deposit the earth excavated at such ts on the island as may be directed by the civil engineer in charge of the possible that in the progress of the work it may become advisable to tun- aining culverts. To meet this contingency, bidders are requested to per lineal foot for which they will engage to perform the excavation g for the tunnels. The area of the section of the tunnels will be about uare feet.

drainage while the excavation is in progress will be bourne by the Gov-

be received from any parties except such as are known to be in busi- considered to be responsible, prompt, and reliable, and of whose respon- mmandant shall be the judge, and who can give satisfactory evidence of to perform the work faithfully and expeditiously.

ment reserves the right to reject any and all offers and no payment will l one-fourth of the work is performed, and the remaining payments when e-quarters, and the whole work are respectively completed. Payments um of the amount due will be made, and 20 per centum of each bill will ntil the whole work is completed.

requested to name the time in which they will engage to complete the eir offers must be accompanied with the certificate of two guarantors, ome responsible each in the sum of $20,000 for the execution of the work the said bidders. The certificate to the said guaranto's' responsibility fied to by the collector of internal revenue for the district in which they

No portion of the above-described work will be allowed to be sublet by the contractor without especial authority from the Navy Department.

Further information will be furnished on application at the commandant's office, at the navy-yard, Mare Island.

(Signed) THOMAS O. SELFRIDGE, *Commandant.*

A part of the "further information" so furnished to bidders was the result of a boring made on the proposed site in order to ascertain the character of the materials to be excavated.

V.

The claimant bid in response to said advertisement, and his bid was accepted. On or about the said 18th day of July, 1873, the claimant and the defendants, in pursuance thereof, entered into the contract and accompanying specifications, of which copies are attached to the claimant's petition, entitled Exhibit A.

VI.

In consequence of the said contract, the defendants discontinued their prosecution of the work of excavating said dry-dock pit, and on the 22d of the same July the claimant commenced work. He had then expended large sums of money and incurred heavy indebtedness in order to perform the obligation of his contract, and was ready and prepared to perform it. The defendants had before that time sunk wells to serve as receptacles of the water in the pit, and they pumped the water out as it collected. The claimant commenced said work on the solid land, and nearly all the material excavated during the month of July was placed either in the south wing or in the front of the coffer-dam. During the month of August also he continued his excavations in the same place, and carried by far the greater portion of the excavated material into the coffer-dam.

VII.

The defendants completed the work on the coffer-dam on the 25th August, 1873. They worked upon it with requisite diligence after the said 18th July, and completed it within a reasonable time. The filling by the claimant, referred to in Finding VI, went on simultaneously with the work of the defendants. By the end of August the claimant had filled the south wing and the front to within 30 feet of the north wing up to about low-water mark. The claimant during this period worked as large a force and did as much excavation and filling as he could at the time of making the contract reasonably have expected or have been expected to work or do.

VIII.

During the months of September and October, 1873, the claimant continued his excavations without interruption in the same portions of the pit. In the course of the same October he ran a dike or dam nearly across the dock, to separate the pit in which he was working from the part of the site open to the tide. This dam was about the middle of the site of the dock, and was 8 or 9 feet high, and cost the claimant $350. He has been paid that sum for it.

Before the end of that October the claimant had excavated about 29,000 cubic yards of material. The work had been done with carts, and had been continued with a uniform force. The pit had been kept free from water by the defendants by the occasional use of a steam fire-engine to empty a small receiving-well. The claimant had made no complaint that the coffer-dam was not finished, or that the sea end of the work was not free from water, or that he had not sufficient room to work his force economically.

IX.

During the same month of September the defendants were employed in completing the coffer-dam and in taking the soft mud from the south wing. There was some delay in filling the north wing of the dam, owing to the neglect of the claimant to deposit there the material excavated from the pit. By the 2d of October, 1873, the dam was completed and the pump set at work. The dam at first showed some weakness, but the injury was repaired at once and the dam braced, and by the 1st November the water within the dam was reduced to a level of 2 feet 6 inches below the average low tide, and eight inches below the lowest low tide. The bottom of the tidal space below the solid land, which was thus exposed, was a thin watery mud and slime, which ran from the carts as it was shoveled into them, and which would not have dried for some weeks if left in its bed. The nature of this bottom was well known to the claimant when he made his said contract.

X.

After the bottom was thus exposed there was no time where there was water enough in the pit to prevent the claimant from working. The engineers in charge of the work were afraid that if all the water on the inside of the coffer-dam were pumped out the outward pressure would be too great for the coffer-dam in its then condition and cause its destruction. The water that was left was confined to the southeast corner of the inclosure, which was used as a well, and where there was a large drain-pipe. This was beyond the line of the prism of the dock which the claimant was to excavate under the contract.

XI.

During the month of November, 1873, the defendants were occupied in watching and strengthening the coffer-dam. The water was kept at about the level of the lowest low tide until the 21st of this month, when it was pumped out, and nearly the whole surface laid dry.

During the same month the claimant excavated and removed about 9,000 yards of material. Before he commenced work in the pit a point had been indicated beyond which he could not work towards the coffer-dam without endangering it. As the excavations deepened and widened on the part of the site on which he was working the slopes of the roadways naturally increased in pitch and narrowed, but the claimant made no complaint of this, and asserted no right to work beyond the designated place. Some time in the latter part of October or early in November he substituted hoisting machinery, driven by a steam-engine, for carts and horses, and after that worked more rapidly and more economically.

XII.

Before the hoisting apparatus was put in the material hauled away was in part put into the coffer-dam, and in part was dumped near the excavation. After the hoisting apparatus was put in a rail-track was connected with it, and the claimant was required to dump the material on ground covered by tide at high water. There was a curve in the shore-line between the dock and the hospital wharf. The defendant's agents desired to make a road on the arc of the curve across meadows which were covered at high water. Such of the material excavated in 1873 as was not used in the coffer-dam was dumped in this place, and all the material excavated in 1864 was dumped there. The claimant objected to dumping in this place, but he was required to do so, and was put to a greater expense than he would have been put to had he been permitted to dump the material at his own pleasure on the upland. The cost of such extra transportation of earth to the place of dumping was $2,835. The claimant has been paid that sum therefor.

XIII.

The rainy season of 1873 set in in November, but did not retard work during that month. In December, 1873, January, 1874, and February, 1874, only six days' work of excavation in all was done. Estimates were made in the usual way upon all the work referred to in this and the previous findings, and the claimant was paid therefor on the said estimates in the manner called for by the contract, and without protest or objection on his part, or intimation that he was not enjoying in the execution of the work all the rights given him by his contract, except the notice as to the dumping above set forth. When he stopped for the winter he had worked almost the whole space to which he had been confined to within 14 inches of the desired bottom.

XIV.

If the water had been excluded from the site of the proposed excavation long enough before the 18th of July, 1873, to permit the mud on the eastern end to dry, and if the water had then been kept out, the claimant could have completed the work under his contract in 120 days; but in the condition in which the coffer-dam was on the said 18th day of July, it was impossible to complete it and to pump out the water earlier than it was done, or in such time that the claimant could complete the work within the term specified in the contract. Because the water was not out and the mud dry on the said 18th July, the claimant was prevented from completing the work within the term named in the contract and before the wet season commenced.

XV.

One hundred and nine days intervened between the signing of the contract and the commencement of the wet season. The shoring, timbering, and sloping of the sides

of the excavation were sufficient to hold the banks in place and keep them from sliding during the dry season, but were an inadequate protection against slides when the rainy season set in. In consequence of defects in sloping and of the lack of proper timbering and shoring, heavy slides occurred during the winter. The claimant removed 9,493 cubic yards of earth that had been thrown into the pit by such slides. He has been paid therefor in full.

XVI.

With the consent of the defendants the claimant resumed work in March, 1874, and continued working with a varying force up to the 5th of the following September. The defendants then took possession of the pit, and took the work out of the hands of the claimant. Up to the 15th May, 1874, he used powder for separating the hard clay material from its native bank. It was worth 25 cents a yard more to get out and remove the hard material without powder than it was with powder, and if powder was used in small quantities in each blast, there was no injury or danger to the coffer-dam or the banks from its use.

In consequence of a severe blast on the 15th May, 1874, in which too much powder was used, the coffer-dam was started a little. The defendants' agent thereupon, on that day, ordered the claimant to cease using powder and blasting, and he did cease, and after that time made no use of powder, although the order was subsequently revoked. The claimant objected to this order. After its issue 15,320 cubic yards of material were excavated and removed without the aid of powder.

Davis, *J.*, delivered the opinion of the court, as follows:

The claimant excavated a large portion of the pit for a dry-dock at the navy-yard at Mare Island, California, under a written contract, and was paid for all the work done, at the contract prices, the sum of $46,551.18.

During the progress of the work the bank fell in more than once, and lodged large masses of clay in the pit. These, also, the claimant removed, and, although the contract obliged him to keep the banks protected, he was paid for the removal, as for material excavated under the contract, the sum of $7,024.32.

He then claimed remuneration for certain injuries which he said he had suffered by reason of the following acts of the defendants, which he said were not authorized by the contract and for some alleged extra work: (1) Delaying the construction of a coffer-dam so as necessarily to throw the execution of a portion of his contract work from the season of 1873, when it should have been done, into the season of 1874; (2) requiring him to haul the excavated material an unreasonable distance and dump it in an unsuitable place; (3) forbidding him to use gunpowder in a portion of the excavations; (4) the alleged extra work was the construction of a temporary dam and the extension of the pit-head. These claims were considered and a basis of adjustment was reached in the Navy Department, which was agreed to by the claimant, and he received $5,685 on these accounts.

He then brought this action. The further claim which he seeks to recover may be tabulated as follows from the two statements contained in his petition:

| | | | |
|---|---|---|---|
| 1. For excavating 15,000 cubic yards of slides, at 74 cents per yard | | $11,100 | |
| Less payment received at the same rates for excavating 9,493 cubic yards | | 7,924 | $4,076 |
| 2. For extra labor and expense by being prohibited the use of gunpowder in blasting | | | 17,848 |
| 3. For difference in place of dumping earth from pit | | 6,500 | |
| Less payment for extra transportation of earth to place of dumping | $2,835 | | |
| And less amount allowed for injuries to railroad track at place of dumping | 500 | | |
| | | 3,335 | 3,165 |
| 4. For filling north wing of dam | | | 350 |
| 5. For extra expense in extending head of pit | | | 1,500 |
| 6. For delays by Government to exclude tide-water, in limiting place of working to less than whole site, and other obstructions | | 20,000 | |
| Less amount allowed for neglect to build dam to keep out tide-water | | 2,000 | 18,000 |
| 7. For damages, loss of time, expenses, and losses on property | | | 45,000 |
| | | | 89,939 |

s to the first six of these items, we should have no difficulty in holding that the mant is not entitled to recover on them, if it were an open question. It appears, rever, by the last finding, that long after these disputes had arisen the claimant ged these identical six claims with the Navy Department for adjustment; that y were inquired into there and a result reached by which some were allowed in , some allowed in part, and others disallowed; that the result of this examination, ch the Navy Department called an award, *was submitted to the claimant with full rmation as to the principles upon which it had been reached; and that he then accepted nent of the amount awarded, and gave a receipt in full. This is clearly an accord and faction of a disputed claim, which closes the door of litigation.*

he seventh item of the claimant's demands was not included in the settlement. It drag-net item, without details, aggregating $45,000. The claimant's brief furies no further light upon it; but in his requests for findings his claims swell to the owing astounding dimensions:

| | |
|---|---|
| s on excavations prior to December 9, 1873, by reason of limited space | $7,279 20 |
| s by reason of inability to use plows | 59,851 20 |
| s by reason of extra expense in dumping | 73,196 40 |
| ra costs of excavations between December 9 and May 9 | 15,866 34 |
| ra cost of excavations after May 15, 1874 | 65,188 00 |
| ra work at pit-head | 4,094 37 |
| ra work in the slides beyond what has been paid for | 21,074 46 |
| s in sale of claimant's land | 18,800 00 |
| s in sale of claimant's machinery | 15,385 00 |
| s by idleness in 1873–'74 | 2,390 50 |
| | 283,125 47 |

he court finds that of this gigantic claim only items to the amount of $5,685 have ood foundation in fact. These items were included in the settlement, and were d in full.

he rules require counsel filing requests for findings to preface them by a statement t they consider them to be proven. We have too much respect for the good judgnt of the learned counsel who signed the requests in this case to suppose that they arded it as proved by any evidence, credible or otherwise, that this claimant, se whole contract covered work of less than $50,000 in amount, was damnified over ,000 in doing that work. We do not expect counsel on either side to frame requests n the judicial stand-point. We know that it is their duty to their clients to put the foot of the case forward, and to present in the most favorable aspect all facts ch they regard as proven on their theory of the case and on their contentions as he admissibility and weight of evidence. Making due allowance for this, howr, it is not unreasonable to expect them to proffer their requests under a sense of onsibility as officers of the court, invited to assist it in administering justice, and void undue exaggeration, or argumentative statement or conclusions of law in ng it.

he judgment of the court is that the claimant's petition be dismissed.

The claimant filed a motion for a new trial, upon which said court, the 29th day of March, 1880, made the following order, and Davis, delivered the opinion of the court upon said motion, which was as lows:

## PROCEEDINGS ON NEW TRIAL.

Court of Claims, December term, 1879.

ARLES MURPHY v. UNITED STATES. } No. 11563.

*Motion for a new trial.*

his case, which was tried at the last term and decided against claimant, will be ad reported in 14 C. Cls. R., 508.

he case was complicated. It related to a contract for the excavation of a dryk on San Francisco Bay. It required the minute examination of plans, and the owing the progress of the work, step by step, through a mass of conflicting testiay, up to the time when the work was taken away from the claimant and finished the Government.

he claimant sought to establish by his proof six items of demand for extra work or s by delays caused by the United States, aggregating $44,939; and a further claim,

set forth in the petition as $45,000, but claimed in the requests for findings, as proved at $283,125.47 for "damages, loss of time, expenses, and for loss of property."

The trial resulted in eighteen findings. The eighteenth of these findings is as follows:

"XVIII.

"After the said work was taken away from him the claimant preferred to the Navy Department the several claims which are set forth upon the fifth page of his petition, except in the last item thereof, 'For damages, loss of time, expenses, and for losses on property, as above, $45,000.' The claim was referred by the Secretary of the Navy to the commandant of the yard at San Francisco, who had had the general supervision of the work. The commandant made thereon what the Navy Department styled an award, which was approved by the Secretary of the Navy. This award recommended that the claimant should be paid for the excavation and removal of 9,493 yards of slide, instead of 15,000 as claimed; for the construction of the dam, as claimed; for the extra transportation of the earth to the place of dumping, $2,835, instead of $6,500, as claimed, and that he should also be paid upon this account the sum of $500, for injuries to the railroad track at the place of dumping, and for the neglect to build the dam to keep out tide-water, $2,000, instead of $20,000, as claimed. The commandant recommended the rejection *in toto* of the items 'For extra labor and expense by being prohibited the use of gunpowder in blasting, $17,848,' and 'For filling the north wing of the dam, $350.'"

On the 3d March, 1877, the Secretary of the Navy directed payment of $5,685, in accordance with this adjustment. Murphy was informed of this adjustment and of the principles upon which it had been made, and thereupon the following voucher was handed to him in duplicate, which he receipted in full, and on which he received the sum of $5,685.

*United States Navy Department, Bureau of Yards and Docks, to Charles Murphy, Dr.*

(Appropriation: Navy-yard, Mare Island, 1876–'77.)

| | |
|---|---|
| 1877. Date of award, Jan'y 31. For amount awarded by the commandant of navy yard, at Mare Island, Cal'a, as damages arising out of contract for excavating the "dry-dock pit" at that navy-yard, and ordered paid by the Hon. Sec'ty of the Navy, March 3d, 1877 | $5,685 |
| Total | 5,685 |

BUREAU OF YARDS AND DOCKS,
*March 3d*, 1877.

Approved for five thousand six hundred and eighty-five dollars, payable by the Navy paymaster at Washington, D. C.

J. C. HOWELL,
*Chief of Bureau.*

NAVY PAYMASTER'S OFFICE,
*Wash., D. C., Mar.* 9, 1877.

Received of W. W. Williams, paymaster, U. S. N., fifty-six hun. and eighty-five dollars, in full of the above bill.

CHARLES MURPHY.

We held this receipt to be "clearly an accord and satisfaction of a disputed claim, which closes the door to litigation." The claimant's counsel thereupon moved at the last term for a new trial. Under the general order referred to in the opinion of the court on Payan's motion, the claimant amended his motion. The amended motion and some accompanying affidavits were filed on the 5th January last, and were subsequently submitted without argument.

The motion principally relates to a supposed error in the eighteenth finding. It also refers briefly to two supposed errors of fact and one supposed error of law, which are imagined to have been discovered in other findings; but it offers no proof or argument in their support, and we see no reason why the motion should not be overruled without further comment, so far as it relates to them. We have no doubt of the correctness of the first seventeen findings, upon the evidence offered at the trial. There is nothing to the claimant's motion which seriously assails them, and any conclusion which the court may reach in regard to the alleged accord and settlement set forth in the eighteenth finding does not affect the correctness of results reached in the other findings.

s to the eighteenth finding, claimant's counsel aver in their motion that they ex-
t to prove on a new trial—

'That upon the report of Admiral Rodgers being received by the Secretary of the
vy, the matter was referred to the then solicitor of the Navy Department, who
reupon made a written report recommending the payment to the claimant of the
n of $5,685, as recommended by Admiral Rodgers; also, that claimant should be re-
ired to give a receipt in full of any further claims against the United States before
ng paid said sum, $5,685. That neither the Secretary of the Navy, the said Ad-
ral Rodgers, nor said solicitor of the Navy Department was in and about the making
said reference an auditing officer of the United States, whereby the same did not
ne within the decision of the court in *Baird* v. *The United States* (6 Otto, 430). That
imant distinctly and positively declined to execute the receipt so recommended by
d solicitor, and affirmed that should he be paid said sum, $5,685, he would receive
d receipt for it as a payment only of so much on account, and with reservation of
ht to seek further payment from Congress or this honorable court. That this his
usal to execute such receipt in full was well known to the officers of the Navy De-
rtment who sent him the vouchers for the said $5,685 without exacting of him the
ecution and delivery of such receipt in full, and well knowing that he did not in-
d the receipt he gave to be taken and considered as a receipt of all and further
ims of his against the United States, * * * and that he expects to prove the
egoing facts as to his refusal to accept and receipt for said $5,685 in full satisfaction
all his said demands against the United States by Augustus M. Merritt and ——
rtello, residents of Washington, D. C."

Neither the affidavit of Mr. Merritt nor that of Mr. Partello is offered in support of
is motion. The counsel submits the affidavit of the claimant himself, setting forth
at he made certain statements in the presence of Merritt and Partello, which tend
show that he refused to sign a receipt in full when the $5,685 was paid, and that
e money was not paid and was not received as an accord and satisfaction. A state-
nt by a claimant who cannot be a witness in support of his claim should, under
cumstances like the present, be fortified by the affidavits of the proposed witnesses.
this is not done, some good reason ought to appear why the court should exercise
discretion in their absence. That reason does appear in the claimant's affidavit.
rritt is said to be chief clerk in the Bureau of Yards and Docks, and Partello is said
be an assistant clerk in that Bureau. It may, therefore, be presumed that the
imant cannot command the voluntary evidence of either of these witnesses. They
, however, within reach of the defendants; and the claimant having averred under
h what he expects to prove by them, the defendants should have asked leave to
roduce their affidavits in order to show that the claimant is mistaken. The pecu-
circumstances of the case would have appealed to the discretion of the court to
ive the strict rule not to admit counter affidavits on such motions. We think an
itable foundation has been laid for a review of this portion of the case. Whether
ays a proper foundation for granting a new trial of the whole case on the merits,
ler the statute and the rules of the court, is a different question, which we now
ceed to consider.

'he fifth section of article xvii of the rules says:

'A motion upon the ground of newly-discovered evidence will not be entertained
ess it appear that the newly-discovered evidence came to the knowledge of the
imant or his attorney after the trial and before the motion was made; that it was
for want of due diligence that it did not sooner come to his knowledge; that it is
material that it would probably produce a different judgment if the new trial were
nted; and that it is not cumulative."

'he proposed proof clearly is not cumulative, and is material. Whether it would
would not change our judgment (a point which we do not now decide), in any event
night change the basis of it, and leave to the claimant a right of review which he
s not now possess; which is a substantial compliance with the requirements of the
e as to materiality. It is equally plain that it was within the knowledge and reach
the claimant and of his attorney before the trial, and might have been produced
re. We cannot find excuse for his negligence in the reasons now offered. There
o good cause shown under the rule for reopening the whole case, and re-examining
complicated issues resolved by the first seventeen findings.

f we must refuse the motion as one asking under the rule for a new trial of the
ole case, it does not follow that we may not afford the claimant an opportunity to
w that there is error in a particular fact set forth in the eighteenth finding which
not in conflict with any of the facts set forth in the previous findings, and which
ght not have occurred had he put in his full proof at the trial. A motion to that
l appeals to the sense of justice of a court that is created to aid honest suitors in
ting their dues from the Treasury. When strong *prima facie* reasons are given for
ubting any particular fact found in a finding it would be in the highest degree in-
itable to refuse to reopen that finding while we have the power to do so. The
imant's motion was made at the term of court in which the judgment was rendered,

and the hearing was had at this term *nunc pro tunc* for the convenience of parties and of the court. We do not doubt our power to listen to these parties again in order to ascertain whether the negligence or mistake of counsel has caused the court to find an error in a particular finding. The fact set forth in these affidavits, and the reasons given by counsel for not presenting them at the trial, although not sufficient foundation to sustain a motion under the rule for a new trial of the whole case, appeal to our sense of justice and give good ground for a rehearing on this one point. It is, therefore—

*Ordered*, That the judgment in this case be set aside with the same force and effect as if the claimant's motion had been heard, and this order made thereon at the last term; and that the findings of fact be set aside so far as to authorize either party to offer, as hereinafter provided, further proof touching the circumstances under which the said sum of $5,685, set forth in finding xviii was paid to the claimant and receipted for by him, but no further.

*Ordered*, That inasmuch as all the witnesses whom the claimant proposes to examine touching said circumstances reside in the city of Washington, said eighteenth finding in its present form shall stand and remain part of the findings of the court in this case unless the claimant shall cause the witnesses named in this affidavit to be examined before a judge of this court at chambers, and shall place his case on the trial-list ready for trial on the point now reopened before the 1st day of May next.

*Ordered*, That, the rehearing being confined to the circumstances under which such payment was made and received, neither party shall be required to file a printed request for findings of fact as would otherwise be necessary under the rule; but the court will expect at the hearing a brief from each party, either printed or in manuscript.

## DECISION ON MOTION FOR NEW TRIAL.

Court of Claims. December Term, 1879.

CHARLES MURPHY *vs.* THE UNITED STATES. } No. 11563.

*In the proceedings under the order of the court made March 29, 1880.*

DAVIS, *J.*, delivered the opinion of the court.

On the claimant's motion for a new trial it was ordered that the judgment rendered in this case at the last term be set aside; but that the first seventeen findings of fact should stand. The eighteenth finding related to the effect of the receipt given by the claimant for the last payment under his contract. The court gave him the opportunity to produce further evidence upon this point, orally, before a judge in chambers. He has now produced and examined the two witnesses named in the affidavit on which his motion was founded. One of them, Mr. Merritt, chief clerk of the Bureau of Yards and Docks, testifies to conversations, all of which, it is evident, from his statements, took place before the receipt of the money. He says that for a period of time in 1877 the claimant was before the Department almost daily pressing his claim; that on one occasion Admiral Howell, chief of the Bureau, informed the claimant that vouchers would be made out and sent to him on the basis of Admiral Rodgers's award; that the claimant objected to the award; that the admiral told the claimant that he wanted nothing more to do with the case, and the claimant must take it to the courts; that the witness has no knowledge that a final receipt was demanded of the claimant; that the claimant told the witness that he would not take the money as a final settlement; that the Secretary of the Navy was not present when this was said, and the witness cannot say whether Admiral Howell was or was not present; and that, by order of the Secretary, bills were made out in the regular Bureau form and sent to the claimant by Mr. Partello.

The other witness, Mr. Partello, a clerk in the same Bureau, confirms Merritt's statement as to the visits to the Department. He says that the claimant came into the Bureau one morning and said that the Secretary of the Navy had authorized a payment to be made to him, and said something about a final receipt, the exact words of which the witness could not remember; that soon after the papers came from the Secretary's office with directions to pay the amount named therein; that the vouchers were accordingly made out and taken by the witness to the claimant's residence; that the witness gave them to the claimant, who opened the package in his presence; that the claimant asked what amount was allowed by the Department; that the witness stated what the Secretary had ordered to be paid; and that the claimant afterwards told the witness that he had got the money on the voucher.

The statement in the eighteenth finding, to which the claimant objected, was in the following words: "On the 3d March, 1877, the Secretary of the Navy directed payment of $5,685, in accordance with this adjustment. Murphy was informed of this

nd of the principles upon which it had been made; and thereupon the cher was handed to him in duplicate, which he receipted in full, and eceived the sum of $5,685."

ing in the evidence now produced to change the finding found by the vidence then before it. We remain of the opinion that the Secretary e payment only on condition that it should close the controversy, and iant knew this, and, with great reluctance and some declarations to out- hat he would not do so, did accept the payment on those terms.

at the findings of fact which were filed at the last term as the findings main on file as such findings, filed as of this day, and that the claim- be dismissed.

motion for a new trial the following affidavits of A. E. Mer- J. Partello were filed.

AFFIDAVIT OF A. E. MERRITT.

ITT, of the city of Washington, District of Columbia, being duly sworn, sayeth:

acquainted with one Charles Murphy, of Vallejo, California; that the Murphy, in the year 1877, presented himself at the Bureau of Yards and for an adjustment and settlement of his accounts under contract with cavating of a dry-dock pit at Mare Island navy-yard, California. That as duly referred to the Hon. Secretary of the Navy, who sent the papers andant at the navy-yard, Admiral John Rodgers, with directions to re- l recommend a basis of settlement. That the said commandant trans- Hon. Secretary of the Navy his report, and recommended in the nature payment to Mr. Murphy of $5,685; that the said report was indorsed by retary and referred to the Bureau to pay the amount stated out of any credit available for that purpose. Mr. Murphy, pending these trans- alled several times at the Bureau and had interviews with the chief, Ad- . Howell, upon the subject.

owell was opposed to the payment of any amount to Mr. Murphy, appear- dislike for the claimant and his claim, some unpleasant words having en them on one or two occasions. For the sake of peace and quietness tment of the matter and payment as directed by Hon. Secretary, Mr. advised to remain away from the Bureau, that the matter would be ad- dily as possible, and by leaving his address, as he did, the papers or vouch- ed, would be sent to his domicile.

Admiral Howell, directed approved bills to be made for the amount irected by the Secretary.

were made upon regular Bureau forms, in triplicate, and in the manner payments were made, no special instructions being given by the Secre- ment except to pay amount named.

pproval by the chief they were taken to the residence of Mr. Charles Thirteenth street near G, by Mr. Partello, one of the clerks attached to who delivered them in person to the claimant.

t was subsequently drawn for in regular manner through the Navy pay igton, D. C., payment being made out of the appropriations for dry-dock, *are Island*, California.

harles Murphy, during these proceedings, expressed himself *as not satis- nall amount paid or allowed him, and expressed a determination to apply to Claims for redress. Which intention was also expressed in the presence of Ad- who advised him if not satisfied and farther relief to apply to said court. Mr. gly protested against the final settlement of his accounts, and was informed the was in the ordinary manner, on usual forms, and would not prevent his appeal r Congress for further relief.*

A. E. MERRITT.

and sworn to before me this twenty-first day of July, A. D. 1882.

D. CORRIGAN, *Notary Public.*

affidavit is by me reacknowledged this February 15, 1884.

AUGUSTUS E. MERRITT.

and sworn to before me this 15th February, 1884.

y hand and seal.

JOHN TWEEDALE, *Notary Public.*

## AFFIDAVIT OF D. J. PARTELLO.

D. J. PARTELLO, of the city of Washington and District of Columbia, being duly sworn, deposeth and sayeth:

That he is acquainted with one Charles Murphy, of Vallejo, California. That the said Charles Murphy, in the year 1877, presented himself at the Navy Department, Bureau of Yards and Docks, for adjustment of his accounts under contract with the Bureau for excavating a dry-dock pit at the navy-yard at Mare Island, California.

Upon Department's direction the commandant at Mare Island, Admiral John Rodgers, reported the facts in the case and recommended an amount of $5,685 to Mr. Murphy, the papers having been indorsed by the Hon. Secretary of the Navy were referred by the chief of the Bureau through the chief clerk to me to have the necessary vouchers made out for payment. There were to me no instructions except to pay out of any money available for that purpose the sum named therein.

I proceeded to make out the bills in the usual manner upon Bureau forms and the same as all current payments were made. It was, as I understood it, a payment of so much money as stated in the report. I had no direction otherwise.

I remember of bad feeling and trouble between the chief, Admiral John C. Howell, and Mr. Murphy, and know the chief, Admiral Howell, was opposed to the claim and appeared to dislike the claimant very much. I did not hear fully what passed between them.

Mr. Murphy was advised to absent himself for reasons given, and that his papers when adjusted and prepared would be sent him. After making all the vouchers they were approved by the chief, and also by the Sect. of the Navy, and came back to me as satisfactory in form. As the papers were valuable it was thought best that I should deliver them, which I did, at the door of Mr. Murphy's residence, 13 street near G, which I was directed to do by the chief of the Bureau.

Mr. Murphy asked me what condition the papers were in; I asked him to examine them and see; I explained to him as best I could the form of payment, and that it was in the usual manner, and as daily current bills were paid. *He asked me as to final receipt, protesting against signing such receipt, and was informed the payment was in the ordinary manner, and would not prevent his appeal to the courts or to Congress for further relief if not satisfactory.*

The bills came to me through the Navy pay-office, drawn for in the usual manner, and were paid, one copy of the vouchers being now on the files of the Bureau from appropriations of navy-yard, Mare Island, dry-dock.

D. J. PARTELLO.

Subscribed and sworn to before me this twenty-first day of July, A. D. 1882.

D. CORRIGAN, *Notary Public.*

This affidavit reacknowledged by me this 15th February, 1884.

DWIGHT J. PARTELLO.

Subscribed and sworn to before me this 15th February, 1884.
Witness my hand and seal.
[SEAL.] WM. L. FINLEY, *Notary Public.*

Claimant appealed from the decision of the Court of Claims to the Supreme Court of the United States. The judgment of the court below was affirmed by the Supreme Court at the October term, 1881.

The following is a copy of the opinion of the court:

DECISION OF THE SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1881.

Appeal from the Court of Claims.

CHARLES MURPHY, APPELLANT, *vs.* THE UNITED STATES. } No. 745.

Mr. Chief-Justice WAITE delivered the opinion of the court.

The judgment in this case is affirmed. We are clearly of the opinion that the acceptance by the claimant, without objection, of the amount allowed by the Secretary of the Navy in his adjustment of the account presented to him was equivalent to a final settlement and compromise of all the items of the present claim included in that account. There is nothing in the findings of the court below to warrant a judgment in favor of the claimant upon the only item included in the petition in this case, which was not mentioned specifically in the account presented to the Secretary of the Navy and passed on by him in the adjustment he made.

*Affirmed.*

ıtended on the part of the claimant that certain findings of fact
ırt of Claims are erroneous, and that if the testimony taken by
of Claims upon the motion for a new trial had been before the
Court the decision of that court as to the law of the case would
ı different, and Congress is asked to review the decision of the
Claims and of the Supreme Court and to declare that these
ıf facts by said court were not warranted by the evidence.
ımmittee is of the opinion that the evidence in the case does
nt such action on the part of Congress, and recommends that
be not allowed.

JANUARY 14, 1885.—Ordered to be printed.

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MERON, of Wisconsin, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill S. 164.]

*mmittee on Claims, to whom was referred the bill (S. 164) for the relief of John C. Herndon, report as follows:*

is a claim for one hundred and five thousand pounds of hay sold
. D. W. McClung, assistant quartermaster, United States Vol-
, for the use of the United States Government, in March, 1865,
greed price of $1.70 per hundred, amounting to $1,785.
s sold under a verbal contract, to be delivered on the banks of
io River, at a point between Cincinnati, Ohio, and Maysville,
d the same was delivered about March 3, accordingly, near Mos-
hio, on the banks of the river, such place being the point agreed
nd the time of delivery the time agreed upon in the contract, in
for shipment, and the Government officers were duly notified
f. Captain McClung gave written orders for boats to take it
n the part of the Government, but it was not done because no
came except those which were already overloaded, and no others
be obtained by the officers of the Army.
n the river opened and the thaw began the river was rising, and
rndon, fearing that it might rise so high as to reach the hay,
to remove it from the banks, but was not permitted to do so,
n McClung saying that he had made arrangements for its removal
he captain of a boat, and that it would be removed at once;
reason of this statement the hay was allowed to remain on the
f the river where it had been delivered. The captain of the boat

directing the purchase, or a certified copy thereof, and also a statement of the particular facts and circumstances constituting the emergency; and it not appearing that any such order was made, or that the statement required was filed, or that any such emergency existed, the purchase and sale were null and void.

It is, however, said by Henry C. Hodges, assistant quartermaster, United States Army, that there may be a case in equity.

It seems to us that it is a case which the Government on every principle of justice should pay.

It was the duty of the Government officers to have the hay inspected within a reasonable time after the delivery and notice of the same, and either to accept or reject it; if this was not done, it was the fault of the Government, which would be bound by the purchase; the purchasing officer being duly notified, and not having rejected it, and besides, having told the vendor not to remove it when he proposed to do so in anticipation of the threatened rise of the river, saying that he had made arrangements for its being taken by the boats that night, was an acceptance, and either passed the title, or the Government became responsible, and took the risk of its remaining, and must bear the loss.

As to the second objection, it appears that Captain McClung did propose to do what was required, but concluded not to do it, lest he should render himself personally liable. He was the proper purchasing officer. His papers were destroyed, and he did not furnish items. His failure to do his duty in rendering proper accounts, &c., cannot operate to the prejudice of the vendor and throw the loss on him, for Mr. Herndon had no power to compel the officer to do his duty, and was not responsible for his failure to do what he was required to do. It was not a thing to be done before the hay was accepted and taken, as essential to the completion and the sale. No absence of proper orders is alleged, and it is fair to presume that the assistant quartermaster was acting rightfully. But in any event the committee are of the opinion that the Government should pay for this hay as a matter of justice, if not of law; and they accordingly recommend that the bill do pass.

O

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 999, and views of minority.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 15, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill S. 1189.]

*The Committee on Claims, to whom was referred the bill (S. 1189) for the relief of the heirs of John Graham, have examined the same, and respectfully report as follows:*

The facts of the case are substantially as stated by the minority of the committee. Upon those facts the question arises whether this claim should be again referred to the Court of Claims, with authority to award damages against the United States for the alleged wrongful seizure and detention of Graham's vessels. The committee do not think it is the duty of the Government to make compensation to its own citizens in such cases, whether its agents and officers acted conscientiously and erred in a doubtful case, or whether their action was arbitrary and wanton. We can see no reason why if this claim be allowed the Government ought not to compensate persons for illegal arrests, wrongful judgments of courts, wrongful acts of military or naval officers, either in peace or war, and all cases where public authority has been abused. The officers of Government are the *common agents* of *all* the citizens and their wrongful acts cannot be made the ground of a claim for damages in favor of the citizen against the Government. The rule is different as to foreigners. Their claim for damages arising from wrongful acts of agents of the United States stand upon a different footing, involve different considerations, and require the application of different principles recognized and sanctioned by international law. In this case there appears to have been probable cause for the seizure of the vessels, but assuming that such was not the case, we think the precedent should not be established of making the Government responsible for even the illegal and unauthorized seizure and detention. Government acts through human and imperfect agents. The liability to suffer from their error is one of the unavoidable ills of life. Once concede liability for all errors of its agents and the very existence of Government would become involved. The present case forms no exception to the general rule which we have stated, and the committee accordingly report back the bill with the recommendation that it be indefinitely postponed by the Senate.

# VIEWS OF THE MINORITY.

[To accompany bill S. 1189.]

*The undersigned member of the Committee on Claims, to which was referred the bill (S. 1189) for the relief of the heirs at law of John Graham, being unable to agree with the majority of the committee, respectfully submits the following:*

That a petition for the relief of said John Graham was presented to the House of Representatives, in 1856, and on the 2d day of August, 1856, said petition was by said House referred to the Court of Claims. That at the December term, 1856, said court decided adversely to the claimant. The following is a copy of the opinion of the court:

LORING, *J.*, delivered the opinion of the court:

The petitioner claims compensation for the detention of three steamships, the United States, the Ocean Bird, and the Saint Lawrence, in the harbor of New York, by the orders of the President. And we find the facts to be:

That in May, 1855, the steamships the United States and Ocean Bird were in the harbor of New York, fitted and ready for sea.

That the United States was under a charter party, made the 18th of April, 1855, between the petitioner, of the one part, and Henry L. Kinney, Joseph W. Fabens, and Fletcher Webster, of the other part, to carry five hundred passengers from the port of New York to the port of San Juan de Nicaragua, for the sum of $20,000, and one-half of the excess over that sum, if any, carried by said vessel on said voyage.

That on the first Tuesday of April, 1858, Henry L. Kinney and Joseph W. Fabens were indicted by the grand jury for the southern district of New York, for setting on foot a military enterprise against the Republic of Nicaragua, and were arrested and were held to bail by the United States district court for said district.

That on the 30th of April, 1855, by letter of that date, the petitioner wrote to Mr. Marcy, informing him he had chartered the steamship United States to Colonel Kinney and his associates, to convey him and his friends to San Juan de Nicaragua, and asking if the Government considered "*this proceeding legitimate.*" Mr. Marcy, in reply, informed the petitioner that a gentleman connected with Colonel Kinney "had been at Washington to represent" it to be a mere emigration movement, and added, "others present it to our notice in a different light." Mr. Marcy further stated that judicial proceedings were pending, and therefore declined to express any definite opinion on the subject; and in a further correspondence referred the petitioner to the United States district attorney at New York.

That on or about the 7th of May, 1855, the petitioner applied at the custom-house in New York for a clearance for said steamship United States for the port of San Juan de Nicaragua, and it was refused; that some days afterward he applied for a clearance of said ship to Havana, and it was refused; and on the 15th of May, 1855, he applied for a clearance of the Ocean Bird for Havana, and it was refused. The collector stated that he was instructed not to clear said vessels.

district of Pennsylvania, charging them with setting on foot a
expedition against the Republic of Nicaragua; and that the
ip United States had been chartered to them and Fletcher
r for the purpose of being employed in said military expedition,
s about to sail from New York to carry them, their followers, and
es enlisted or engaged for said expedition, to their destination
agua. And the President commanded Captain Boarman as fol-

, therefore, hereby directed and empowered, in virtue of the eighth section
of Congress approved the 20th of April, 1818, to take all proper measures
ploy such part of the naval force of the United States under your command
necessary to prevent the carrying on of such expedition or enterprise, and
to prevent the departure of said steamer United States from beyond the
said district of New York.

by an order, dated May 30, 1855, the President referred to his
May 25, 1855, and commanded Captain Boarman as follows:

hereby directed to consider that order as also embracing any other vessels
at district which have been or may be chartered or fitted out for a similar
y the same parties who chartered the United States.

e refusal of the clearances and under the orders aforesaid the
amship Ocean Bird was detained in the harbor of New York from
day of May to the 10th day of July, 1855, inclusive; and the
amship United States was so detained from the 20th day of
the 10th day of July, 1855, inclusive.
the demurrage of the Ocean Bird, as a compensation for her de-
if allowed, should be estimated at $900 a day, and the demur-
the United States at $800 a day.
the charter party of the United States above mentioned as made
the petitioner and said Kinney, Fabens, and Webster, was
ned by the parties interested by mutual consent, on account of
ntion of the steamship United States, as above set forth, by the
nent; and that the voyage provided for by the charter-party
ave occupied twenty-five days.
s contended for the petitioner in the lucid and very able argu-
his counsel that the act of the President, under the eighth sec-

here, make a tort. Therefore the loss and inconvenience the petitioner has suffered are *damnum absque injuria*, which is not a ground for action at law.

On the facts found we are of opinion that the defendants are entitled to judgment, that they go without day, &c.; and it is so ordered.

The petitioner appealed from said decision to the Supreme Court. While the appeal was pending the case of Gibbons *vs.* The United States (8 Wallace, 269) was decided by that court, by which it was held by the Supreme Court that the Court of Claims had no jurisdiction of wrongs done to individuals by officers of the General Government. In the opinion delivered in said case the following language is used:

> In such cases when it is proper for the nation to furnish a remedy Congress has wisely reserved for itself the entire determination; it certainly has not referred it to the Court of Claims.

In consequence of said decision the petitioner abandoned his appeal and presented his claim to the Forty-second Congress of the United States. An act was passed in relation thereto by the House of Representatives of that Congress and sent to the Senate, read twice and referred to the Committee on the Judiciary, but the committee made no report. Said claim was thereafter presented to the Forty-third Congress and was referred in the House to the Committee on Foreign Affairs, which committee made an adverse report thereon which was based upon a mistake of fact as to the time of the finding of the indictment against Kinney and Forbes, confounding the date of the commencing of the term of said United States district court with the date on which said indictment was found, but said report was not acted upon when the term of said Congress expired. The claimant again presented his petition to the Forty-fifth Congress, which was referred in the House to the Judiciary Committee, which reported a bill authorizing the petitioner to prosecute his claim in the Court of Claims. At the Forty-sixth Congress his petition was referred in the House to the Judiciary Committee and reported favorably, the committee adopting the report of the Judiciary Committee of the previous Congress. Petitions or bills for the relief of the claimant appear to have been introduced and referred in the Senate to the Forty-first, Forty-sixth, and Forty-seventh Congresses, but no reports were made upon the same.

Graham died March 30, 1882, leaving a will which has been duly admitted to probate, and his widow, Elizabeth J. Graham, has been duly appointed sole executrix thereof, and renews the petition of her late husband for relief.

Section 8 of the act approved April 20, 1818, authorizes the President to take possession of and detain any ship or vessel fitted out or armed, or attempted to be fitted out or armed, contrary to the provisions of the act, and it was under this act that the President seized and detained the vessels in question. The President undoubtedly acted in good faith in seizing said vessels, and your committee are not satisfied that the object of Kinney, Forbes, and Webster in chartering said vessel was not unlawful, and that the steamer United States was not lawfully detained. The fact is, however, that one of the charterers, Webster, was not indicted under the act, and the other charterers were released upon their own recognizances, there being nothing but hearsay evidence against them, and they were never tried and no proceedings were taken against the vessels. The report of the House Judiciary Committee made to the Forty-fifth Congress contains references to several precedents in England and in this country for making indemnity

I have myself great doubts whether, if we had seized the Alabama, we t have been liable to considerable damages." (Hansard's Debates, vol. 170,

ently the same Government did seize several vessels.
hese vessels was the Alexandra, which was seized under circumstances cal- excite the greatest suspicions.
sel was finally released to the claimants, after a decision in the House of heir favor, and £3,700 sterling damages and costs were paid by the Govern- memorandum attached to Earl Russell's letter to Mr. Adams, dated Novem- ; diplomatic correspondence 1861, Part I, p. 636).
ility of the English Government in a case arising under their laws is not as behalf of the claimants as that of Graham was thus acknowledged, and the s of the opinion expressed by Lord Palmerston established.
e cases we have been able to find which have arisen in England, the Gov- after making the seizure, has compromised the claimant's demand for dam- e purchase of the property seized. The most notable instance of this course Laird "rams," when, after the claimant had given notice of a demand for the "rams" were purchased by the Government at a cost of £225,000 ster- h subsequently, according to the statement of British naval officers, proved rthless.
essels had been built in violation of the laws of Great Britain, with hardly of concealment.
arising in this country it has been considered important to establish two

manifest presence of the finger of the Government in the transaction, and loubted evidence of oppression and hardship as regards the citizen.
ling case is that of the American Eagle (American State Papers, Vol. XIX, 5, 601).
s in this case are similar to the facts in the case of Graham, though less op- the claimant.
re briefly as follows: The American Eagle was a large frigate-built ship, of uild, sold by French captors to American citizens, and pierced forty-eight June, 1808, she was lying in New York, ready for sea with a large supply ns on board, with repairs and outfits in man-of-war fashion, but without or crew. Under these circumstances, the French minister presented remon- the Government, stating that the ship was destined for Petion, one of the fs of Saint Domingo, then in rebellion against France. On the 6th of June or of New York was informed by letter from the Treasury Department that ion of the President the ship ought to be seized and libeled, under the third the act of 1794 (which is identical with the third section of the act of 1818, ich Graham's ships were seized and detained), as being fitted out for poses, unless the owners should give satisfactory proofs to the contrary.
was accordingly seized on the 10th day of July, 1810.
pt at the proof referred to was offered by the owners, and a committee of

The Committee on Claims in their report say: "While the Government has important rights which are to be duly guarded, the citizen has his rights which should not be overturned or forgotten in our zeal to enforce the laws. If an officer will wantonly and without probable cause seize upon the property of an individual who is carrying on a lawful commerce, he ought to be made to respond in the courts of justice for the injury inflicted, without the most remote prospect that he will be remunerated by the Government, whose laws he has violated by oppressing one of her citizens." (M. Gelston, Twenty-fifth Congress, second session, Rep. No. 38.)

The only distinction between these two cases is that in one the interference of the Government was apparent, and in the other it was not.

In the case of Charles B. Hall (Twenty-seventh Congress, second session, Rep. No. 545) the petitioner sought redress directly from the Government, as the petitioner Graham does.

It appeared that certain blankets, the property of Hall, had been seized and libeled for an attempt to defraud the revenue. The committee in this case inferred the direct agency and authority of the Government, in the seizure and all subsequent proceedings, from the fact that, "after notice of the seizure, the Department sanctioned the prosecution of the libel." Their report closed with these words:

"In the whole affair the finger of the Government is seen. Perhaps this rigor is called for, and the committee do not design to censure or condemn it, but when it is discovered that agents of the Government have, under its authority, improperly occasioned injury or loss to individuals, it is the high duty of the Government to make prompt reparation."

The claimant was indemnified by act of 1843, ch. 121. (4 Stats. at Large, p. 832.)

Precedents are numerous, and attention is called to several, viz:

Act for compensation to the owner of the British ship Pertshon, in consequence of her detention by the United States steamer Massachusetts, under the impression that she had evaded the blockade. (12 Stats. at Large, p. 901.)

Also for "wrongful seizure and detention of the Spanish ship Proosidentes," approved May 12, 1862. (13 Stats. at Large, p. 903.)

Also for wrongful seizure and detention of the British ship Magician—act approved July 25, 1866. (14 Stats. at Large, p. 601.)

Also act to indemnify W. C. H. Waddell, marshal of the southern district of New York, for damages obtained against him for seizing a quantity of brandy. Act approved June 30, 1834. (6 Stats. at Large, p. 594.)

Also an act to indemnify John How & Sons for an illegal seizure of teas. (6 Stats. at Large, p. 566.)

Also "An act to indemnify for capture and detention of ship Niger." (1 Stats. at Large, p. 724.)

Also "An act to indemnify for capture and detention of schooner Aphitheatre." (6 Stats. at Large, p. 47, and other cases cited. See 6 Stats at Large, p. 56; 3 *id.*, 423; 6 *id.*, 150, 307, 265, 241, 511, 750, 466, 373.)

Also, act for the relief of Cyrenus Hall. (8 Laws, 784.)

See also report accompanying House bill No. 462, House Reps., Twenty-ninth Congress, second session, p. 690, on the claim of John Pickell, *et al.* *v.* owners of brig Alert.

Reference should also be made to the case of the steamship Meteor, the facts in regard to which are similar to those in the case of the petitioner Graham.

The Meteor was a steamer of unusual speed, built during the rebellion by private citizens with the purpose of being transferred to the United States for the capture of the Alabama and other Confederate cruisers.

Not being needed, in consequence of the collapse of the rebellion, she was offered for sale. The Chilian Government, at that time at war with Spain, was desirous to purchase her, and negotiations were opened with the owners, which, however, were never consummated.

The owners finally determined to send her to South America for sale.

Information was lodged against the Meteor for intended violation of the neutrality acts, and she was seized January 23, 1866.

No armament was on board at the time, two Parrott guns having been removed some time previous. An attempt was at once made to have the vessel bonded, but the application was refused by the district court. The case was first tried by the district judge—Judge Betts—in March and April, 1866.

On the 13th of July an opinion was rendered, condemning the ship on the ground that an intent had existed on the part of the owners to dispatch her from the United States to be employed in hostile operations in favor of Chili against Spain. But on the 20th of July the same judge permitted the ship to be released upon the claimants executing the usual bond. The case was tried on appeal in the circuit court before Judge Nelson, November, 1867, and the judgment below was reversed. The appeal taken by the Government to the Supreme Court was abandoned November 9, 1868. Under the above state of facts the owners petitioned Congress for redress. On July

favorable light possible, as vindicators of the duties of neutrality.
d by these public considerations, the Government was too forgetful, or too
to the interests and rights of the owners of the Meteor. The proceedings
e been guided, controlled, and terminated, not by the natural and ordinary
ne district attorney and the courts, but by instructions and decisions of
l department of the Government at Washington.
nly was the proceeding political, and not judicial in its character, but the
ond the vessel, from which refusal the principal damage arose, was an
l extraordinary proceeding; and it is impossible to resist the conclusion
fusal in this case was from political and not from legal considerations.
the motion to bond, District Attorney Courtnay said:
se this motion not only because I deem it my duty in my official capacity
; also under instructions from the State Department, which I will read and
f my argument in the case.' "
view of the English and American precedents, to which we are indebted
s cited above, the report closed with the following words:
of all the circumstances of the case, the committee believed it to be the
gress to make provision for the compensation of the owners of the Meteor
ages sustained by the unlawful detention of the vessel.
mittee now only recommend the action indicated by Judge Betts in his
using to bond the vessel, which entailed the heavy loss upon her owners.
e in closing his opinion was as follows:
suggestion of the hardship of the case to the claimants, in case of an ac-
he vessel on trial, the answer is that it is not improbable that the policy
Congress of holding the vessel in custody to secure the rigid observance
ality laws would be considered by the Government as furnishing grounds
compensation for the loss and damage caused by an unwarranted prose-

n Congress passed a joint resolution referring the memorial to the Court
y the judgment of which court the owners were finally indemnified.
this report by quoting from the brief of counsel:
e of Graham very closely resembles that of the Meteor. In his case the
vernment is even more apparent.
s were refused clearance by the collector, as that officer himself says, by
the President; an armed naval force, by the President's orders, blockaded
and the officer in command informed the petitioner that he was author-
attempt was made to depart, to fire upon and sink the steamers. Here
ve power clearly manifested.
resemblance here ends.
ings were taken in due judicial form against the Meteor, and by the dis-
he was condemned. In Graham's case no judicial proceedings whatever
against the ships, nor was he ever indicted for any alleged violation of the
United States, and *two* of the *three* charterers of one of the petitioner's
ships were indicted more than a week after the charter-party had been en-

"In 1866, when the Meteor was detained, the United States were in a diplomatic controversy with Great Britain regarding alleged violations of the neutrality law in the affair of the Alabama and her sister cruisers.

"When Graham's ships were locked up in the port of New York, in 1855, the same powers were disputing over alleged violations of the same general law by British consuls in the United States. It will be seen that the true reason for the action of the Government of the United States in both cases was the same."

It is apparent that Congress has not always been consistent upon the question of making compensation in cases of this character, and it is admitted that one Congress is not bound in such a case by the precedents made by a previous one. The dissent of the undersigned from the report of the majority is not based upon precedents for the payment of such claims.

Without questioning the legal proposition asserted in the report of the majority, the undersigned is of the opinion that whether the proposed voyage of the steamer United States under said charter was unlawful or not, the testimony does not show that Graham had any knowledge of its unlawful character, or had any intention of violating the law; and although his personal representatives may not be entitled to indemnity, upon strict legal principles, for the damage resulting from the detention of said steamers, the case is one of such hardship is to merit the favorable consideration of Congress; and that the legal representatives of Graham should be authorized to prosecute their claim in the Court of Claims for the detention of said steamers, as if the statute of limitations had not run against the claim, and that if the court should find that the detention of said steamers, or either of them, was without sufficient cause, or that the steamers, or either of them, were unreasonably detained under the order of the President, it should be required to give judgment in favor of the claimant for the natural and proximate damages sustained by said Graham by reason of such detention, not exceeding in the case of the steamers United States and Ocean Bird the amount of damages found by said court upon the former trial, with the right to either party to appeal, as in other cases, and to read on the trial of said cause such depositions as may have been used in the former trial thereof.

J. N. DOLPH.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1000.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 15, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Claims, submitted the following

# REPORT:

[To accompany H. R. 5452.]

*The Committee on Post-Offices and Post-Roads, to whom was referred the bill (H. R. 5452) for the relief of John W. Martin, has examined the same, and report as follows:*

The bill proposes to pay to John W. Martin, of Brookhaven, Miss., the sum of $700 for services actually rendered as postmaster at Brookhaven, by authority of the military commandant, from July, 1865, to July, 1866.

The facts in this case, as disclosed by the papers, are as follows:

That on the 24th day of June, 1865, the said John W. Martin was appointed postmaster at Brookhaven, Miss., by Maj. Alfred Hodsden, commanding the post at that place. The records of the Adjutant-General's Office show the appointment of said Martin. The records also show that the fact of his appointment was duly communicated by Major-General Osterhaus to the Postmaster-General of the United States. Twenty-one leading and respectable citizens of Brookhaven certify that Dr. Martin discharged in a very acceptable manner the duties of postmaster at that place for a period of twelve months.

The Post-Office Department refused to pay the claim for service because it was a military appointment, and did not come within the jurisdiction of that Department.

Mr. Martin having been appointed postmaster by the local commandant in obedience to instructions received from headquarters of the district of Mississippi, then under military government, and the major-general in command of said district having, under date of June 18, 1865, formally communicated to the Postmaster-General the fact of said appointment which was not disapproved either by the Post-Office Department or by the Executive, it may be said that the claimant acted by authority of the President, devolved through military channels, so as to entitle him, under the act of March 31, 1879, section 31, 20 Statutes at Large, p. 362 (Postal Regulations, section 135) to such compensation as a regularly commissioned postmaster would have been entitled to at that post-office. It appears that Martin not only acted as postmaster, but also employed his clerk and furnished his own office room. He was relieved by a regularly commissioned postmaster appointed July 19, 1866. For subsequent years the annual compensation allowed the postmaster at Brookhaven was as follows: July, 1866, to June 30, 1868, $300; July 1, 1868, to June 30, 1870, $780; July 1, 1870, to June 30, 1872, $950; July 1, 1872, to June 30, 1874, $1,000.

The records of the Post-Office Department show that the first adjustment after the war was *arbitrarily* fixed at $300 per annum, there being no date on which to base an accurate adjustment according to the changed condition of affairs, and as stated by the Postmaster-General, "It would appear from the subsequent adjustments that the rate was underestimated." The claimant asked $1,300 as compensation for his services. The House in view of all the facts allowed him the sum of $700, which amount your committee deem just and reasonable, and they accordingly report back the bill with the recommendation that it be passed by the Senate.

8TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1001.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1885.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

# REPORT:

[On House amendment to bill S. 12.]

*The Committee on Claims, to which was referred the amendment of the House of Representatives to the bill (S. 12) for the relief of Elizabeth Carson, has considered the same, and reports as follows:*

The original bill, as it passed the Senate January 23, 1884, provided for the payment of $2,630.30, "in full satisfaction for subsistence, use of jail, fuel, fire, care and attention furnished by her to conscripts, deserters, and rebel prisoners confined in the jail of Bourbon County, Kentucky, by the military authorities of the United States, in the years eighteen hundred and sixty-two, eighteen hundred and sixty-three, eighteen hundred and sixty-four, and eighteen hundred and sixty-five."

On January 9, 1885, the House of Representatives passed an amendment in the nature of a substitute, striking out all after the enacting clause, and providing for an investigation of the claim by the Quartermaster-General, and a report of his findings to Congress.

While the committee does not recede from its report upon the original bill, yet, at this stage of the session, it deems it best to adopt the House amendment, and recommends, accordingly, that the bill do pass as amended.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1002.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1885.—Ordered to be printed.

Mr. PIKE, from the Committee on the District of Columbia, submitted the following

# REPORT:

[To accompany bill S. 1941.]

*The Committee on the District of Columbia, to whom was referred S.* 1941, *being a bill declaratory of the meaning of section* 3 *of the act of June* 16, 1882, *for the relief of Howard University, having considered the same, beg leave to make the following report:*

That before the enactment of the aforesaid law of June 16, 1882, for the relief of Howard University, a tax had been assessed in this District upon a part of the property of the said university, amounting to near the sum of $23,000; that the university objected to the payment of said tax upon the ground that it ought not to have been assessed against them for the reason that it was a charitable institution, having for its object the education of the colored people without tuition; that it was incorporated by special act of Congress (14 U. S. Stats. at Large, 439) at a time when it seemed needful that some such institution should be founded at the national capital for the colored people; that the grounds of the university were purchased and the buildings thereon erected, under the authority of Congress, with funds from the Freedman's Bureau; that Congress had made annual appropriations for its maintenance; that it was doing a national work, having then under instruction three hundred and fifty students from twenty-eight States and Territories; that in all its literary departments, normal, preparatory, and collegiate, the tuition was free; that it held no property which was not obtained under the authority of the Government, except charitable gifts made for specific endowments; that the said university had no income except that which was derived from the Government and from charitable sources for specific objects, and therefore had no fund out of which to pay these taxes; and that if collection was enforced the property must be sold and the work of the institution abandoned, and that this would be both a calamity to the colored race and a national injury.

That the aforesaid act of June 16, 1882, had for its object not only the remission of the tax already assessed against them, but was to give them exemption from future taxation.

That a controversy has arisen between the university and the authorities of the District as to the meaning of the third section of said act; that the Commissioners of the District claim that the act does not give

the university exemption from future taxation, while the university claims that it does; that the university ask the passage of the bill now before the Senate to make clear and certain and to carry out the intention and purpose of the law of June 16, 1882.

That since the enactment of the said law of June 16, 1882, the District have assessed taxes against the university upon the same real estate against which the remittal and exemption under said act had been made, and are now seeking to enforce their collection.

Your committee are of the opinion that it was the purpose of the law of June 16, 1882, to give the university exemption from further taxation, as well as to remit the taxes that had been previously assessed.

At the time of the passage of the aforesaid act there was a full discussion in the House upon the general purposes, merits, and effects of the bill, and it is entirely clear from that discussion that it was the intention of the House that the bill should exempt the property of the university from future taxation. That discussion may be found in the Congressional Record, Forty-seventh Congress, first session, under the date of June 13, 1882. In fact, the bill was objected to by some members of the House upon the ground that it did provide an exemption against future taxation, and an amendment was offered to take from it that effect, which was voted down by a large majority.

There was no discussion upon it in the Senate, the bill passing without objection.

It further appears that at the passage of the act of June 16, 1882, a contract was entered into between the United States and Howard University, by which 11 acres of land was conveyed to the Government in consideration of the remission of taxes then due and future exemption from taxation upon its property; that the university at once fulfilled its part of the contract under the direction of the Attorney-General, and the committee think it is just that the Government should fulfill its part.

The exemption of the property of this institution is no exception to a very general rule prevailing everywhere in the Republic that property devoted to and used in furnishing free education shall not be taxed.

This institution stands in the same relation to the Government that the Deaf Mute College does, which always has been exempt from taxation, and which has been in the receipt of an annual appropriation from the Government.

It has been urged that the real estate held by the university on which the tax in dispute has been assessed is not used "for the purposes set forth in the charter of the institution," and for that reason the exemption does not apply, and the right to tax exists.

But your committee do not find that this real estate is not used "for the purposes set forth in the charter of the institution," but on the contrary they find that it is held and used, so far as it has been used at all, for the purposes set forth in the charter.

The university can neither hold or use real estate for any other purpose. All the property of the institution must be used, and can only be used, in aid of the general objects of the university, and if sold the proceeds must be devoted to the same purposes. (Act to incorporate Howard University, 14 Stats. at Large, p. 428, sec. 2.)

Section 10 of the same act provides:

> That the said corporation shall not employ its funds or income or any part thereof in banking operations or for any purpose or object other than those expressed in the first section of this act.

as been further urged that if the university could hold this real
, the tax on which is in dispute, exempt from taxation, they could
n indefinite amount in the same way. But the committee do not
is to be the fact, for the charter provides that they can hold only
amount of $50,000 net annual income.

r committee are therefore of the opinion that the purpose of the
June 16, 1882, should be made clear and definite, and to accom-
hat purpose they recommend the passage of the bill herewith
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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1003.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1885.—Ordered to be printed.

Mr. SEWELL, from the Committee on Military Affairs, submitted the following

# REPORT:

[To accompany bill S. 790.]

*The Committee on Military Affairs, to whom was referred the bill (S. 790) to authorize Col. George W. Getty, United States Army (retired), to be placed upon the retired list of the Army with the rank and pay of a major-general, have considered the same, and respectfully report:*

The committee present the following memorial of General George W. Getty, and make the same a part of their report:

*To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:*

Your petitioner respectfully represents that on the 3d day of February, 1883, the honorable Secretary of War transmitted to the honorable Senate and House of Representatives of the Forty seventh Congress the following, to wit:

*Letter from the honorable Secretary of War transmitting a petition of Col. G. W. Getty, Fourth Artillery, brevet major-general, United States Army, praying for the passage of an act authorizing his retirement.*

FEBRUARY 3, 1883.—Referred to the Committee on Military Affairs and ordered to be printed.

WAR DEPARTMENT,
*Washington City, February 2, 1883.*

The Secretary of War has the honor to transmit to the United States Senate a petition of Col. George W. Getty, Fourth Artillery, brevet major-general, United States Army, embodying his military history and praying for the passage of an act authorizing his retirement October 2, 1883, with the rank, retired pay, and emoluments of a general officer in the Army. Accompanying is an indorsement of the General of the Army submitting the petition to this Department.

ROBERT T. LINCOLN,
*Secretary of War.*

The PRESIDENT PRO TEMPORE OF THE UNITED STATES SENATE.

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[Petition of George W. Getty, colonel Fourth Regiment of Artillery, and brevet major-general, United States Army.]

*To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:*

Your memorialist, George W. Getty, colonel Fourth Regiment of Artillery, and brevet major-general in the United States Army, respectfully represents:

That he was born in the District of Columbia in 1819; was appointed from that District, and entered the United States Military Academy at West Point, N. Y., as a

cadet in 1836; was graduated and promoted in the Army to be second lieutenant Fourth Regiment of Artillery July 1, 1840, and has remained continuously in the Army since that date, a period of nearly forty-three years, to wit:

Served in the State of Michigan, engaged during the fall and winter of 1840–'41 in removing the Pottawatomie tribe of Indians from that State to their reservation west of the Mississippi River, and on the northern frontier during the Canada border disturbances, 1841–'42.

Promoted first lieutenant, Fourth Artillery, October 31, 1845.

Served in the war with Mexico (1847–'48), being engaged in the battles of Contreras and Churubusco, August 19–24, 1847; battle of Molina del Rey, September 8, 1847; the storming of Chapultepec, September 13, 1847; and the assault and capture of the city of Mexico, September 13–14, 1847.

Brevetted captain "for gallant and meritorious conduct in the battles of Contreras and Churubusco."

Served in the Florida hostilities against the Seminole Indians, 1849–'50.

Promoted to be captain, Fourth Artillery, November 4, 1853.

Served in the Florida hostilities against the Seminole Indians, 1856–'57, and on frontier duty in Kansas, 1857–'58, in quelling disturbances in that State; on frontier duty, Platte Bridge, Nebr., Fort Laramie, Nebr., and Fort Randall, Dak., 1858–'61.

Served during the rebellion of the seceding States, 1861–'66: In command of an artillery battalion at Cincinnati, Ohio, May–August, 1861; in command of the artillery in the engagements with Confederate batteries on the Potomac River near Budd's Ferry, Maryland, November and December, 1861.

Transferred to the Fifth Regiment of Artillery (new regiment) May 14, 1861.

Appointed lieutenant-colonel, staff, additional aid-de-camp, September 28, 1861.

Served in the Virginia peninsular campaign, Army of the Potomac, March August, 1862, in command of four batteries of field artillery, being engaged in the siege of Yorktown, April 5–May 4, 1862; battle of Gaines's Mill, June 27, 1862, and battle of Malvern Hill, July 1, 1862; in the Maryland campaign, Army of the Potomac, September–November, 1862, being engaged in the battle of South Mountain, September 14, 1862; battle of Antietam, September 17, 1862; and the march to Falmouth, Va., October–November, 1862.

Appointed brigadier-general of volunteers, September 25, 1862.

Served in the Rappahannock campaign, Army of the Potomac, December, 1862, to March, 1863, being engaged in the battle of Fredericksburg, Va.; December 13, 1862, in the operations about Suffolk, Va., on the line of the Nansemond River; in command of third division of the Ninth Army Corps during the defense of Suffolk, April 11 to May 3, 1863; in command of storming column in the assault of Hill's Point works and battery, April 19, 1863; in making reconnaissance and commanding in engagement on Providence Church road, near Suffolk, May 3, 1863; and in command of troops constructing intrenched lines covering Norfolk and Portsmouth, Va., May 13 to June 23, 1863; in command of expedition from White House to South Anna Bridges, July 1 to 8, 1863.

Brevetted lieutenant-colonel (Regular Army) "for gallant and meritorious services during the siege of Suffolk, Va."

Promoted to be major Fifth Artillery August 1, 1863.

Acting inspector-general of the Army of the Potomac, January 27 to March 18, 1864.

Served in the Richmond campaign, Army of the Potomac, in command of the second division of the Sixth Army Corps, being engaged in the battle of the Wilderness, May 5, 6, 1864, where he was severely wounded while in command of the division.

Brevetted colonel (Regular Army) March 5, 1865, "for gallant and meritorious services at the battle of the Wilderness," Virginia.

On the march from White House, Virginia, to James River, June, 1864, and in the siege of Petersburg, and expedition to Ream's Station and Weldon Railroad, June 28, to July 10, 1864; in the defense of Washington City, July 11, 12, 1864, and in pursuit of the army under General Early to the Shenandoah Valley, July 13 to August 9, 1864.

Served in the Shenandoah campaign, August 10 to December 2, 1864, being engaged in the action of Charlestown, August 21, 1864; battle of Opequan, September 19, 1864; battle of Fisher's Hill, September 22, 23, 1864, and battle of Cedar Creek, October 19, 1864.

Served in the siege of Petersburg, December 12, 1864, to April 2, 1865, being engaged in the assaults of March 25 and April 2, 1865, upon the enemy's works.

Brevetted major-general of volunteers August 1, 1864, "for gallant and meritorious services at the battles of Winchester and Fisher's Hill, Virginia."

Brevetted brigadier-general (Regular Army) March 13, 1865, "for gallant and meritorious services at the capture of Petersburg, Va."

In the pursuit of the Army of Northern Virginia, April 3 to 9, 1865, being engaged in the battle of Sailor's Creek, April 6, 1865, and was at the capitulation of General R. E. Lee, with that army, at Appomattox Court-House, Va., April 9, 1865; was on the *march to* Danville, Va., and to and about Washington, D. C., April 10 to June 28, 1865.

Brevetted major-general (Regular Army) March 13, 1865, "for gallant and meritorious services in the field during the war of the rebellion."

Served in command of the First Division Provisional Corps, June 28 to July 17, 1865; in command of the District of Baltimore, Md., August 9, 1865, to January 29, 1866; in command of the District of the Rio Grande, Texas, February 19 to August 31, 1866, and in the District of Texas, August 31 to October 9, 1866.

Appointed colonel Thirty-seventh Regiment of Infantry (new regiment) July 28, 1866.

In command of the District of New Mexico April 11, 1867, to February 1, 1871.

Transferred to Third Regiment of Infantry March 15, 1869.

Transferred to Third Regiment of Artillery January 1, 1871, and to Fourth Artillery July 17, 1882.

In command of Third Artillery from March, 1871, to March 1, 1877; in command of the United States Artillery School by special assignment by the President from March 1, 1877, to the present time.

Your memorialist further represents that he has been almost continuously on duty as a general officer, by virtue of his commission as brigadier-general of volunteers, in command of the Third Division of the Ninth Army Corps and Second Division of the Sixth Army Corps in the field during the war of 1861–'66, or by special assignment by the President of the United States according to his brevet rank of general officer from September 25, 1862, to the present time, and that under such special assignments last named he has not received additional compensation to his pay as colonel, in any sense, from November 23, 1864, when he was first assigned to duty according to his brevet of major-general.

Your memorialist further represents that under the operation of existing law he will be retired from active service on the 2d day of October, 1883, with the rank and retired pay of colonel in the Army.

Therefore he prays your honorable bodies, in view of his long and faithful service to the country, abundantly testified to by the records of the War Department, for the passage of an act authorizing his retirement on the 2d day of October, 1883, above named, with the rank, retired pay, and emoluments of a general officer in the Army.

Wherefore your servant will ever pray.

GEO. W. GETTY,
*Brevet Major-General, and Colonel Fourth Artillery, U. S. Army.*

FORT MONROE, VA., *January* 18, 1883.

ADJUTANT-GENERAL'S OFFICE,
*January* 27, 1883.

Respectfully submitted to the Secretary of War, with a copy of the petition and indorsement thereon of the General of the Army, for each House of Congress.

R. C. DRUM,
*Adjutant-General.*

HEADQUARTERS OF THE ARMY,
*Washington, D. C., January* 26, 1883.

This petition of Col. George W. Getty, Fourth Artillery, brevet major-general United States Army, is hereby most respectfully forwarded to the honorable Secretary of War, with an earnest recommendation that he will forward a copy to each of the two houses of Congress with such favorable recommendation as will command the attention of that body.

On the 2d day of October, 1883, General Getty will be sixty-four years of age, and by existing law will be retired on three-fourths of the pay proper of a colonel. His petition recites in detail his most honorable career of service in the Army of the United States continuously since the year 1836, and it so happens that I am able, from memory, to verify nearly every fact therein set forth, and as we were classmates at West Point, and have from time to time been associated ever since, I ask the privilege not only to indorse his petition, but to add my own, that this act of simple justice may be done as an example to younger men who may thereby be encouraged to imitate his example.

George Getty, as a boy and man, through a long, eventful life, has been a model gentleman and soldier. Of unexceptionable habits, a superior intelligence, and high professional acquirements, he has always been selected, in war and peace, for high and responsible commands.

Modest to a fault, he has never pushed himself forward into undue prominence, but has done well all that he was appointed to do, and has always been sought for by his seniors for posts requiring high qualification and professional excellence. He has commanded divisions in battle, departments or districts in peace, and is now serving on his brevet rank of major-general.

It does seem to me unfair that a great nation like the United States should compel a colonel to do the work of a major-general, on the pay of a colonel, through years of

life, and when age brings its natural infirmity to turn him out on the diminished pay of his lowest rank.

It would seem more just to meet these exceptional cases by a general law, but as Congress reserves to itself to deal with these cases, I most respectfully represent that the principle of common justice seems to demand that General Getty should, during his few remaining years, have for the support of himself and of his dependent family the retired pay of a major-general. Even this will fall far short of compensation for the labor and responsibility imposed on him by superior authority, in exacting from him the work of a major-general on the pay of a colonel.

W. T. SHERMAN,
*General.*

Your petitioner also further represents that the foregoing received the following action, viz:

[From the Congressional Record, No. 61, February 15, 1883. Senate, February 14, 1883.]

Mr. HOAR. I present the petition of Charles Devens, late brigadier-general and brevet major-general, and a very large number of other very distinguished officers in the late war, some of them now officers of the military forces of the United States, praying Congress to pass an act authorizing the placing of General George W. Getty, colonel of the Fourth Artillery, upon the retired list of the Army, when he shall be retired, with the rank of major-general, the rank which he held when wounded at the head of his division at the battle of the Wilderness. The petition states the estimate in which this Army officer is held by the petitioners. It is stated very fully and eloquently, and is of itself a very distinguished honor to the officer in whose behalf the petition is made. I move that it be referred to the Committee on Military Affairs.

The motion was agreed to.

Petition referred to by Mr. Hoar:

*To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:*

The undersigned, now or late officers of the military forces of the United States, earnestly pray your honorable bodies to pass an act authorizing the placing of General George W. Getty, colonel Third Artillery, upon the retired list of the Army, with the rank of major-general, a rank which he held when wounded at the head of his division at the battle of the Wilderness.

Modest and unassuming, he was cool, prompt, and resolute in danger. A strict disciplinarian, he was ever careful of the lives, the health, and the comfort of his soldiers. Prompt and efficient in executing difficult and dangerous enterprises, he fought his troops with great vigor and determination, and held a position once occupied with unyielding tenacity. His habitual post in battle was on the line with his troops. He possessed the confidence of superiors in command and the enthusiastic devotion of his troops, and deserved both. For three years during the war he held command, and much of the time the rank of a major-general, and as such commanding the Third Division, Ninth Corps, and later the Second Division, Sixth Corps, bore a distinguished part in the battles fought by the Army of the Potomac and in the Shenandoah Valley campaign under Sheridan. To confer upon his declining years that rank on the retired list which, during his manhood's prime he so honored in active service, would, we submit, be but just to General Getty, honorable to the nation, and gratifying to all who served under his banner.

And your memorialists will ever pray.

(Signed:) Chas. Devens, late Brig. and Bvt. Maj. General; J. M. Forbes; Stephen M. Crosby, Bv. Colonel; George A. Bruce, late Bvt. Lieut. Colonel; Wm. J. Ladd, Bvt. Captain; John F. Tarbell, Paymaster, U. S. N.; Daniel D. Gilbert, M. D., U. S. Navy; Wm. G. Howe, late Prov. M. 4th Mass. D.; James H. Rice, Bvt. Lieut. Col., U. S. A.; Horace C. Bacon, Capt., 11th N. H. Vols.; Edward Sullivan; J. E. Fiske, Capt. Co. H, 2d Mass. H. A.; A. E. Paine, A Surg. 104th Col'd Troops; W. H. Jones, 1st Lieut., 31st Mass. Vols.; Charles Jones, jr., 1st Mass. Vols.; Isaac H. Hazelton, Ass't Surg., U. S. N.; Edward Cowles, Ass't Surg., U. S. A.; H. W. Fitch, Engineer, U. S. N.; C. A. Gove, Ensign, U. S. N.; E. P. Nettleton, late Bvt. Col., U. S. Vols.; Wm H. Long, late Bvt. Col., U. S. Vols.; S. A. Ranlett, Adj't, 36th Mass. Vols., 9th Corps; T. H. Talbot, Bvt. Brig. Gen., 1st Me H. A.; Daniel T. Bunker, Major, 3d Mass. Cav.; Edward T. Bouve, Major, 26th N. Y. Cav.; Geo. S. Follansbee, Capt. 1st Mass. H. A.; D. W. Lee, Capt., Irish Brigade, 9th Corps; Jos. H. Lathrop, Adj't. 4th Mass. Cav.; Chas. E. Bowers, 1st Lieut., 26th N. Y. Cav.; Wm. W. Douglass, late Capt., 5th R. I. Art'y.; A. P. Martin, 3d Mass. Battery; Winslow Warren;

L. F. Rice, late Capt. and Bvt. Maj., 31st M. V.; William West, late Capt. 118th Penn. Vols.; Jas. H. Denny, Asst. Surg. 2d Mass. Art'y.; Peter Pineo, Lt. Col. and Med. Ins., U. S. A.; C. A. Campbell, Lt., 40th Mass. Vols.; W. V. Hutchings, Chief Q. M. 25th A. C.; James Thompson, Q. M., 24th Regt.; George H. Preble, Rear Admiral, U. S. N.; J. Henry Sleeper, Bvt. Maj., U. S. Vols.; E. C. Blasland, Bvt. Lt. Col., 33d Mass.; Theo. A. Dodge, Bvt. Lt. Col., U. S. A.; Wm. P. Shreve, Bvt. Maj., U. S. Vols.; Thos. Sherwin, Bvt. Brig. Gen'l., U. S. Vols.; Edward P. Brown, Bvt. Maj., U. S. Vols.; C. E. Hapgood, Col., U. S. Vols.; Edward T. Barker, late U. S. A.; G. E. Pollard; Albert A. Pope, late Bvt. Col., U. S. Vols.; J. M. Blanchard, Capt., U. S. Vols.; Henry L. Pope, Lt., Mass. Cavalry; Chas. S. Halladay, late U. S. N.; A M. Benson, late U. S. Vols.; George Pope, late Lt. Col., U. S. Vols.; W. B. Sears, late Capt., 2d R. I. Vols. Infty.; E. J. Bartlett, Lt., 5th Mass. Cav.; Wm. Roberts, late Chief Engineer, U. S. N.; Wm. T. Durell, Maj., 4th U. S. Col'd Troops; Chas. F. Joy, Capt., 54th Mass. Vols.; Geo. B. Dyer, Major, 9th Me. Vols., Bvt. Col.; Edgar Parker, Ass't Surg., 13th Mass. Vols.; Ed. N. Whittier, 5th Battery, Me. Vols.; John H. Ammon, Col. 16th N. Y. Vols.; C. F. Hildreth, Surg., 40th Mass. Vols.; Wm. Hedge, late Lieut., 44th Mass. Vols.; Henry W. Fuller, Bvt. Brig. Gen. Vols.; Henry B. Jones, Lieut., 3d Mass. H. A.; C. A. Currier, late Capt., 40th Mass. Vols.; C. H. C. Brown, Adjt., 7th U. S. C. T.; W. H. Cundy, late Capt., 40th Mass. Vols.; E. E. Edwards, late Co. G, 40th Mass. Vols.; H. C. Lee, late Col. 27th Mass., Bvt. Brig. Gen.; S. M. Quincy, Col. 2d Mass. Infty.; L. N. Tucker, late Capt., 18th Mass. Vols.; W. S. Gile, Capt., 18th N. H. Vols.; N. G. Smith, Capt., 75th U. S. C. T.; Charles E. Pratt; Edgar J. Sherman, Bvt. Maj., U. S. Vols.; Arnold A. Rand, Col. 4th Mass. Cav.; Hazard Stevens, Bvt. Brig. Gen., U. S. Vols.

From Congressional Record No. 71, February 27, 1883, Forty-seventh Congress, second session, page 55. House of Representatives, February 26, 1883.]

COL. GEORGE W. GETTY.

Mr. Rosecrans introduced a bill (H. R. 7645) to reward the long, faithful, and distinguished services of Col. George W. Getty, Fourth United States Artillery, and brevet major-general, United States Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

Your petitioner now has the honor to renew his prayer as hereinbefore set forth, and prays in addition thereto that in view of the fact that he was severely wounded in battle while in actual command of a division, thereby entitling him to the privilege of retirement with the rank of major general, under the then existing law, your honorable bodies may pass an act placing him on the retired list of the Army with the rank, pay, and emoluments of a major general.

Wherefore your servant will ever pray.

GEO. W. GETTY,
*Brevet Major-General, Colonel, U. S. Army (retired).*

FORT MONROE, VA.,
*October* 2, 1883.

General Getty was a distinguished officer of the Army of the United States, having been retired in accordance with the law at the age of sixty-four years. He was severely wounded, as shown by the records, while a major general of volunteers, commanding a division. He would at that time, and for several years thereafter, have been entitled to retire with the full rank of major-general, but the law permitting such retirement has been repealed.

The indorsement of the general commanding the Army as to the high character of this officer, his eminent services to the country through a long period of years, including the high commands held by him in the late war, are convincing proofs to the committee that some mark of recognition should be granted to General Getty, and they therefore recommend the passage of this bill with an amendment fixing his rank on the retired list as a brigadier-general of the United States Army.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1004.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1885.—Ordered to be printed.

Mr. SEWELL, from the Committee on Military Affairs, submitted the following

# REPORT:

[To accompany bill S. 2383.]

*The Committee on Military Affairs, to whom was referred the bill (S. 2383) in relation to chaplains in the Army who served one year or more in the war of the rebellion as officers or privates, have considered the same, and respectfully report:*

The committee present herewith, as a part of their report, the accompanying letter from the Secretary of War inclosing a communication from the Adjutant-General of the Army:

WAR DEPARTMENT,
*Washington City, December 22*, 1884.

SIR: I have the honor to acknowledge the receipt of your letter of the 9th instant, inclosing, for the views of this Department thereon (S. 2383), a bill "in relation to chaplains in the Army who served one year or more in the war of the rebellion as officers or privates," together with a letter dated the 18th of November, 1884, from Winfield Scott, post chaplain United States Army, upon the subject.

In reply, I beg to invite your attention to the inclosed report, dated the 17th instant, from the Adjutant-General of the Army, which gives what are believed to be strong reasons against making any discrimination among the small number of chaplains in the Army.

It may be added, that while chaplains in the Army have the rank of captains of infantry, with a specific rate of pay of $1,500 per annum, with longevity pay when entitled thereto, their pay is not the same as that given to a captain in the Army.

The communication of Post-Chaplain Scott is herewith returned.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
*Secretary of War.*

Hon. WILLIAM J. SEWELL,
*Of Committee on Military Affairs,*
*United States Senate.*

The following is the Adjutant-General's communication to the Secretary of War referred to:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
*Washington, December* 17, 1884.

SIR: I have the honor to return herewith the letter from Hon. W. J. Sewell, of the Senate Committee on Military Affairs, dated the 9th instant, in which he incloses a copy of Senate bill 2383, "in relation to chaplains in the Army who served one year or more in the war of the rebellion as officers or privates," and requests information relating thereto for the use of the committee.

There are in service thirty post and four regimental chaplains; of these eleven served one year or more during the late war in State regiments, as chaplains or as company officers or enlisted men, and five served a year or more as *chaplains in the United States Army*. One chaplain served over a year as a sailor in the Navy.

Chaplains, as well as all other officers of the Army, now receive credit for increased or longevity pay for all the time they may have served in the Army or Navy, either as officers or enlisted men, and if an act should be passed to increase the salaries (in addition to the increased pay now allowed for length of service) of *some* of the chaplains, it seems reasonable to assume that the others would not rest contented until given the increase also.

Any military services rendered by these gentlemen during the war were doubtless considered to their advantage when they were appointed to their present positions, just as such services were considered and made the basis of appointments of so many officers when the Army was reorganized in 1866; and hence it is believed that the chaplains who served one year or more in the war have been fully compensated for that service by the consideration given thereto in the matter of their appointments, and by the increased pay therefor now allowed by law. To give them additional compensation, without making some similar provision for hundreds of other officers who served in the war would discriminate in favor of a class of officers who probably are not, by any means, the *most* deserving in this respect.

Very respectfully, your obedient servant,

R. C. DRUM,
*Adjutant-General.*

The Hon. SECRETARY OF WAR.

Chaplains in the Army, while having the same rank as captains, receive a fixed pay of $1,500 per annum, with the addition of the regular longevity pay of the service. Those now in the Army, having served in the late war, may, as the Adjutant-General states, have received their appointments partly from that reason, and the committee concur in his conclusion that the passage of this bill would not be to the interest of the service.

They therefore report the bill adversely.

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CONGRESS, Session. | SENATE. | REPORT No. 1005.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1885.—Ordered to be printed.

ACKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 1949.]

*ommittee on Pensions, to whom was referred the bill (S. 1949) grant- a pension to Elise Burki, have examined the same, and report as ows:*

it Christian Johann Burki, late first lieutenant Company E, Fif- 1 Regiment Missouri Volunteers, was pensioned for gunshot wound t leg at $8.50 per month. The wound was received in November, After remaining in hospital for a while he returned to his com- , and was honorably discharged in December, 1865. The soldier ied to his native country, Switzerland, after the war, and died at , Switzerland, on the 13th April, 1873. On the 24th March, 1874, idow, the said Elise Burki, filed her application for pension, alleg- iat her husband had died of the wound so received in the service. investigation it appeared that the soldier died of cerebral menin- It was then claimed that the wound led to the disease aforesaid; is theory was not accepted by the medical referee of the Depart- , and the claim was rejected on the ground that the cause of the r's death could not be properly or reasonably attributed to the ry service. The claimant then sought relief from Congress, and the case was pending before the Senate Committee on Pensions, or Blair, under date of June 12, 1884, returned the papers to the nissioner of Pensions with the request that he would have "the ooked over carefully again in order to see if there should not be pen- on the ground that the death grew out of the blood poisoning and disease contracted in the service." He further inquired whether unshot wound may not have caused the disease of which the soldier The Commissioner, as requested, had the case carefully re-ex- ed, and, under date of June 21, 1884, replied to Senator Blair's in- s as follows:

DEPARTMENT OF THE INTERIOR, PENSION OFFICE,
*Washington, D. C., June* 21, 1884.

I have the honor to return herewith the papers constituting the claim of Elise widow of Christian J. Burki, No. 214544, with the information that after care- sideration the medical referee of this office is of the opinion that the cause of of the claimant's husband is in no way chargeable to the military service. If od poisoning was established as having been incurred in the service, the same , or could not, be accepted as eventuating in chronic cerebral meningitis. It observed that the attending physician (Dr. Marti) testifies that Mr. Burki was sick soon after the American war, presumably in the year 1867, the year said

doctor commenced to treat him, and in 1868 he (the doctor) diagnosed the disease as meningo-cephalitis chronica, which developed in encephalo-malaria, softening of the brain, &c., which facts tend to indicate that the death cause originated subsequent to the termination of the soldier's service. It does not appear probable that any evidence could be furnished to warrant a change of action.

Very respectfully,

O. P. G. CLARKE,
*Acting Commissioner.*

Hon. H. W. BLAIR,
*United States Senate.*

After a careful examination of the case, your committee consider this action of the Commissioner correct, and no reasons are presented for changing the result thus reached. They accordingly report back the bill to the Senate with the recommendation that it do not pass.

48TH CONGRESS, 2d Session. | SENATE. | REPORT. No. 1006

# IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 1854.]

*The Committee on Pensions, to which was referred the bill (S. 1854) granting a pension to William D. Esley, has examined the same and reports:*

That the Commissioner of Pensions, in his letter transmitting the papers in this case to the committee, says:

The claim has been legally allowed, but awaits a certificate from the Board of Surgeons at Wichita, Kans., the examination having been ordered November 15, 1884. Upon receipt of this certificate and on the return of the papers the adjudication will be promptly completed.

The bill is therefore reported adversely, with the recommendation that it be indefinitely postponed.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1007. Views of minority.

IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1885.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

# VIEWS OF THE MINORITY:

[To accompany bill H. R. 1813.]

Mr. Blair, for a minority of the Committee on Pensions, by direction of the committee, reports back favorably House bill No. 1813, granting an increase of pension to Ann Cornelia Lanman, widow of Rear-Admiral Joseph Lanman, and recommends its passage.

This bill was reported favorably by the Senate Committee on Pensions of the Forty-seventh Congress. It now comes to us with the indorsement of the House of Representatives, whose favorable report we adopt and recommend the passage of the bill. The report of the House committee is a copy of the report of the Senate committee of the Forty-seventh Congress.

[House Report No. 890, Forty-eighth Congress, first session.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1813) granting a pension to Ann Cornelia Lanman, widow of the late Rear-Admiral Joseph Lanman, have examined the same, and find:*

The bill was reported favorably upon in the Forty-seventh Congress from the Senate Committee on Pensions, which report we adopt as our own:

Admiral Lanman entered the naval service of the United States as a midshipman January 1, 1825, and passed through all the grades of the service up to rear-admiral. He served during the late war, and distinguished himself at the attack on Fort Fisher, under Admiral Porter. Admiral Lanman was officially recognized for gallant service throughout the war. In 1869 he was promoted to be a rear-admiral, and placed in command of the South Atlantic fleet, where he served three years. On his return from this command he was placed on the retired list.

On the 20th of February, 1874, he received a telegram from Secretary of Navy Robeson to report at Washington, D. C., as a witness. The order was received by him at 5 o'clock in the afternoon, and he left for Washington the same evening. On that journey he contracted a very severe cold, and when he reached home he was scarcely able to walk. He immediately took to his bed, and grew worse until the 13th of March, 1874, when he died. The physician who attended him in his last sickness swears that he died of pneumonia, contracted during his journey to Washington, as above stated.

The evidence shows that Rear-Admiral Lanman left a widow, the present claimant, and two minor children, to wit, Alice Blanche and Rosalie Decatur, aged, respectively, twelve and fourteen.

A pension of $30 a month was granted to Mrs. Lanman by special act of Congress. This was the pension allowed by law at that time in the cases of the widows of admirals, so that the special act gave Mrs. Lanman the full benefit of the law at that time. Now she petitions Congress to increase the pension allowed her to $50 per month, on the ground that her present pension is inadequate to the support of herself and her children.

In connection with this petition for an increase of pension it is pertinent to inquire into the equity which has governed the committee's action in similar cases.

By the pension law as it existed prior to the act of July 14, 1862, the pensions granted to officers of the Navy and to their widows and minor children in case of death were made equal to the half monthly pay of such officers, such pay as existed in 1835, which forms the basis upon which such pensions were granted. These pensions were payable from the interest of the naval pension fund. By this law rear-admirals, their widows, &c., received a pension of $50 a month.

The act of July 14, 1862, established pensions for the Army and Navy, according to rank, making Navy pensions correspond with Army pensions. By this act of July 14, 1862, the pension granted to rear-admirals was reduced to $30 a month. The act of July 14, 1862, was construed as affecting only pensions which should be granted after the passage of said act.

Section 3 of the act of July 25, 1866, provided—

"That the provisions of an act entitled 'An act to grant pensions,' approved July 14, 1862, and of the acts supplementary thereto and amendatory thereof, are hereby, so far as applicable, extended to the pensioners under previous laws, except revolutionary pensions."

In applying this act no reduction of the naval pensions previously granted was made.

Section 13 of the act of July 27, 1868, provided—

"That the third section of an act entitled 'An act increasing the pensions of widows and orphans, and for other purposes,' approved July 25, 1866, shall be so construed as to place all pensioners whose right thereto accrued subsequently to the war of the Revolution and prior to the 4th of March, 1861, on the same footing as to rate of pension from and after the passage of said act as those who have been pensioned under acts passed since said 4th day of March, 1861, and the widows of revolutionary soldiers and sailors now receiving a less sum shall hereafter be paid at the rate of $8 per month."

Under this act, upon the decision of the Secretary of the Interior, naval pensions already granted were reduced to the rates provided in the act of July 14, 1862, such reduction taking effect from the last half yearly payment made prior to February 10, 1870, the date of the decision.

This decision gave rise to the passage of the act approved June 9, 1880, entitled "An act to restore pensions in certain cases," which provides—

"That section three of an act entitled 'An act increasing the pensions of widows and orphans, and for other purposes' approved July twenty-fifth, eighteen hundred and sixty-six, and section thirteen of an act entitled 'An act relating to pensions,' approved July twenty-seventh, eighteen hundred and sixty-eight, and section forty-seven hundred and twelve of the Revised Statutes shall not operate to reduce the rate of any pension, which had actually been allowed to the commissioned, non-commissioned, or petty officers of the Navy, or their widows, or minor children prior to the twenty-fifth day of July, eighteen hundred and sixty-six; and the Secretary of the Interior is hereby directed to restore all such pensioners as have already been so reduced to the rate originally granted and allowed, to take effect from the date of such reduction."

Under this act such pensioners as had been reduced under the decision rendered by the Secretary of the Interior, February 10, 1870, were restored to their original rate of pension.

All those widows, &c., of rear-admirals who have applied for a pension since the rendering of the decision of the Secretary of the Interior, February 10, 1870, have only been granted a pension of $30 per month, which presents the inconsistency of a portion of rear-admirals' widows receiving $50, while the balance are pensioned at $30 a month without difference of rank, merit, or long service. Since the restoration of this class of pensions to $50 per month by the act of June 9, 1880, the widows who are allowed but $30 per month at the Pension Office under the act of July 14, 1862, have from time to time applied to Congress for an increase of pension from $30 to $50, and for original pensions of $50 per month, and such increase, or original granting of pensions at $50 per month, has frequently occurred during the present session of Congress. (See Mr. Teller's report, Elizabeth Wirt Goldsborough; Mr. Jackson's report, Louisa Bainbridge Hoff; Mr. Platt's report, Rebecca Reynolds; Mr. Platt's report, Elizabeth H. Spotts.)

Some of these cases are for long and meritorious services, and for original pension; others for an increase from the $30 allowed by the Pension Office to $50. In the report of the case of Admiral Goldsborough, where it is not alleged that he died of any disease contracted in the line of duty, or even in the service, the concluding clause in the Goldsborough case is as follows:

"Such a record of service, in the opinion of the committee, justifies the payment to his widow of the same pension allowed in other cases by special act of Congress to the widows of other officers of the Navy of similar rank. The committee therefore recommend that Senate bill 743 be passed."

Secretary of the Navy, but within a few days after contracting the disease.

ıe $30 pension granted by special act was acceptable to Mrs. Lanman until others › greater merit were increased to $50. The inconsistency of her receiving but $30 me apparent, and no reason prevailing why her case should be an exceptional one, hought it proper to ask Congress by a special act to remove this inconsistency. asmuch as the Forty-sixth Congress thought proper to increase certain cases of widows of admirals to $50 (see Lelia E. McCauley, p. 609 Stats. at Large, 1879–'81, Ann M. Paulding, 608, Stats. at Large, 1879–'81), and have frequently seen fit since ant the same pension in similar cases, your committee can see no good reason Mrs. Lanman should not receive a like pension, and therefore report a bill to that , and recommend its passage.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1008.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

*The Committee on Pensions, to whom was referred the petition of William S. Pardee for an increase of pension, and of sundry citizens of Michigan praying that said increase may be granted, has examined the same and reports:*

That the said petitioner can submit his case under the law to the Commissioner of Pensions for an increase, and that legislative action is not necessary thereto.

The Commissioner of Pensions, in his letter transmitting the papers in the case to the committee, says:

In compliance with your request, I have the honor to forward herewith the papers in the case of William S. Pardee, late private Company C, One hundred and twenty-ninth Indiana Volunteers, certificate No. 57067. The soldier was pensioned in 1866 for shell wound of right knee at $8 per month from May 11, 1865, the date of his discharge, and $12 per month from July 25, 1883, which is the present rate of allowance.

This latter rate was allowed on the basis of the report of the board of examining surgeons, which fixed the degree of disability at one-half total for the grade to which this case belongs, or $12 per month. If on another application for increase of rate it should be made to appear that the disability is total the Commissioner of Pensions may increase the rate to $24 per month.

This being the case the committee report the petitions back to the Senate, recommending their indefinite postponement, leaving the petitioner to pursue his remedy in the manner now by law provided.

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This survey was made under the act of June 10, 1872 (17 Stat., 358), and was for the purpose of determining the true eastern boundary of the State of California. No previous survey had been made by the United States, although a survey of the northern portion of the boundary line, which was made under authority from the State of California, was subsequently paid for by the General Government. The azimuth line, being the portion now in question, had been marked prior to Von Schmidt's survey, by a protraction of lines upon the maps and not by an actual Government survey. The correctness of this line depends primarily upon the accuracy with which the 120th degree of longitude is established.

Von Schmidt adopted the 120th degree as determined by the United States Coast Survey, his own observations agreeing therewith, as shown by the following extracts from his report:

OBSERVATIONS AT VERDI, ON THE CENTRAL PACIFIC RAILROAD, FOR DETERMINATION OF LATITUDE AND LONGITUDE.

The astronomical station at Verdi, on the line of the Central Pacific Railroad, for determining the 120th degree of longitude west from Greenwich was established by Prof. George Davidson, chief assistant United States Coast Survey, during the months of July and August, 1872, under and by direction of Prof. Benjamin Peirce, Superintendent of the Coast Survey, upon the application of Prof. J. D. Whitney, State geologist, and Clarence King, United States geologist, for the true position of the 120th degree of longitude west from Greenwich.

Professor Davidson, in pursuance of orders, therefore proceeded to Verdi, and, during the period above stated, made numerous observations for longitude and latitude.

In making these observations Professor Davidson availed himself of telegraphic communication with the astronomical station at San Francisco and thence direct with Greenwich, the free use of the telegraph for that purpose being placed entirely at his disposal.

The observations at that time taken by Professor Davidson were forwarded to Prof. J. E. Hilgard, assistant, Coast Survey, for computation, and by him found to be correct. I applied to Professor Peirce, Chief of Coast Survey, for a copy of these computations, which he kindly furnished me. * * *

I remained at Verdi a week taking observations, which I found agreed with those taken by Professor Davidson.

Being convinced that the work of Professor Davidson was correct, and having great confidence therein, I concluded to adopt his 120th degree of longitude, more especially as the season was drawing to a close (it being then September) and the time for completing my work necessitating expedition, as no work can be done in the mountains during the winter months.

I would here state that subsequent reductions of these observations of Professor Davidson have proved the accuracy thereof.

The computations of azimuth of the true line running in a southeasterly direction from the intersection of the 39th degree of north latitude with the 120th degree of longitude west from Greenwich to the point of intersection of north latitude 35° with west longitude 114° 37′ 53″.50, in the middle of the channel of the Colorado River, were made in the computing division of the United States Coast Survey, by direction of Professor Hilgard. It is upon this line that the alleged error occurs. An examination of the field-notes evinces great care on the part of the surveyor to secure accuracy in the establishment of the line, and the only further method of testing the correctness of the work would be by an examination in the field and new astronomical observations. The length of the line along the counties of El Dorado, Alpine, and Mono is about 400 miles, and the total distance between the Oregon State line and the Colorado River is 612 miles. I estimate the cost of an initiatory examination in the field of the azimuth line at $15,000, and the cost of a new survey of the entire boundary at $41,000.

There is no fund available for the payment of the expense of an examination in the field, and if it should be the opinion of Congress that cause exists for such examination, a suitable appropriation would be necessary. The Senate resolution is herewith returned.

Very respectfully,

N. C. McFARLAND,
*Commissioner.*

Hon. H. M. TELLER,
*Secretary of the Interior.*

And on the 5th day of May, 1884, there was referred to the Committee on Territories the following memorial:

Memorial and petition of the Board of Supervisors and others of the County of Mono, State of California, asking that an error in running the boundary line between the States of California and Nevada, by which the counties of Mono, El Dorado, and Alpine, of the former State, suffered a loss of territory, may be corrected, and a new survey of the said boundary line be made by the proper officers of the United States Government.

Your committee have made as careful an examination of the matter presented by this memorial as the means at their disposal would permit. The Secretary of the Interior states in his letter that he has no knowledge of the existence of the alleged error made by Alexy (W.) von Schmidt in the survey of the eastern boundary of the State of California; that the survey was made under the act of June 10, 1872 (17 Stat., 358), and was for the purpose of determining the true eastern boundary of the State of California; that Von Schmidt adopted the 120th degree as determined by the United States Coast Survey, his own observations agreeing therewith, and the correctness of this line depends primarily upon the accuracy with which the 120th degree of longitude is established.

Your committee report the memorial without recommendation, and ask to be discharged from the further consideration of the petition.

CONGRESS, } SENATE. { REPORT
l Session. } { No. 1010.

IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1885.—Ordered to be printed.

VILSON, from the Committee on Pensions, submitted the following

# REPORT:

*Committee on Pensions, to whom was referred the petition of David azier, late private Company B, Fifteenth Ohio Volunteers, praying for increase of pension, and the petition of sundry citizens of Ohio with e prayer in his behalf, has examined the same and reports:*

at Mr. Frazier was pensioned in 1881 for gunshot wound of face, ł per month, from September 20, 1864, the date of his discharge. as not applied to the Commissioner of Pensions for an increase of ate, nor does he present to your committee any exceptional facts h would justify the passage of a special act for his relief. If he is ıow receiving the rate authorized by law for his degree of disabil- e needs but to make proof of this to the Commissioner of Pen- to secure an increase.

e committee therefore reports back the petitions with a recom- ation that they be indefinitely postponed.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1011, and views of minority.

IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1885.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 3065.]

The Committee on Pensions, to whom was referred House bill 3065, granting a pension to Emma De Long, have examined the same and report adversely, recommending the indefinite postponement of the bill:

# VIEWS OF THE MINORITY.

Mr. BLAIR, for a minority of the Committee on Pensions, submits the following favorable report by the committee recommending the passage of House bill 3065, granting a pension to Mrs. Emma De Long, widow of the late Lieutenant-Commander George W. De Long, of the United States Navy, with an amendment inserting the words "fifty dollars" instead of "thirty dollars" in the body of the bill:

The House report is brief, but a just and emphatic tribute to the services and memory of one of the brightest examples of bravery, fortitude, and heroism which the annals of mankind afford.

The original bill has been slightly amended, and, as amended, the committee recommend its passage. It is not deemed necessary to refer at length to the gallant services of the brave Lieutenant-Commander George W. De Long, who gave up his life while on duty in the frozen wilds of Siberia. The long and painful story of the Jeannette expedition; the gallantry and devotion of the men therein engaged; the horrible suffering to which they were subjected, and finally the death of a number of them in the ice-fields thousands of miles from the country they served so faithfully —all has gone to history, and become a shining chapter in the great record of human heroism. And now the faithful wife of the brave De Long asks at the hands of Congress a pension sufficient to supply the bare necessities of a life darkened and saddened by the Siberian tragedy of which the husband was the central figure.

The committee unanimously and earnestly recommend the passage of the bill, as amended, granting a pension to Mrs. Emma De Long.

The minority also desire to preserve the following memorandum from the Navy Department of the special services of Lieutenant De Long, together with the authentic narrative which follows it, contributed at the request of the member of the committee to whom the examination of the bill was referred by the committee.

The record of the lives of true heroes is the evidence of high national qualities and the stimulus to that high endeavor which preserves the standard of excellence in coming time.

We therefore place this matter on the files of the Senate, not merely as an act of justice to Lieutenant De Long, but as affording an illustrious example of inestimable value to the youth of the Republic.

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NAVY DEPARTMENT,
*Washington, February* 15, 1884.

SIR: In compliance with your request, I transmit herewith, for the information of the Committee on Pensions, an abstract of the record of service of the late Lieutenant-Commander George W. De Long, United States Navy.

Very respectfully,

WM. E. CHANDLER,
*Secretary of the Navy.*

Hon. JOHN I. MITCHELL,
*Chairman Committee on Pensions, United States Senate.*

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George W. De Long was appointed an acting midshipman in the United States Navy October 1, 1861; graduated September, 1865, and was detached from the Naval Academy and placed on waiting orders.

November, 1865, he was ordered to the Canandaigua. December 1, 1866, was promoted to ensign; March 12, 1868, was promoted to master. February, 1869, was detached from the Canandaigua and placed on waiting orders. April 16, 1869, was commissioned as lieutenant from March 26, 1869. April, 1869, ordered to the Lancaster June 15.

October, 1870, he was detached from the Lancaster and granted permission to return home.

April, 1871, was ordered to equipment duty at the navy-yard, New York, where he remained until January, 1872, when he was detached and ordered to the Nantasket. July, 1872, was detached and ordered to the Frolic, and in January, 1873, he was detached and ordered to the Juniata; he remained attached to that vessel until January, 1874, when he was detached and ordered to the Brooklyn, and in November, 1874, he was detached and placed on waiting orders.

December, 1874, he was ordered to the nautical school-ship Saint Mary's, and remained until April, 1876, when he was detached and ordered to the Lehigh; July, 1876, he was ordered to command the Lehigh.

September, 1876, he was detached and ordered to the nautical school-ship Saint Mary's; January, 1878, he was detached and granted leave of absence for one year, with permission to leave the United States. He was considered as in command of the Jeannette from July 15, 1878. April, 1879, he was ordered to examination for promotion; and in May, 1879, was ordered to special duty at New York, and then to command the Arctic exploring steamer Jeannette.

January 19, 1880, commissioned as lieutenant-commander from November 1, 1879.

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MEMORANDUM CONCERNING THE LOSS OF THE ARCTIC STEAMER JEANNETTE, ETC.

From the Navy Department. The pages referred to are those of the record of the Court of Inquiry.

The Jeannette left San Francisco on her voyage to the Arctic seas, July 8, 1879 (p. 20); crossed the Arctic circle via Bering's Straits on the 28th of August (p. 21); entered the ice September 6; subsequently during the same month went into winter quarters (p. 23), and was finally frozen in on the 11th of December, 1879 (p. 25). From that position it was found impossible to extricate her, and there she remained until June 12, 1881, when, by the movement of the ice, she was gradually crushed, and, on the 13th, finally destroyed and sunk (pp. 31 to 35–91, 93). For a period of eighteen months the Jeannette lay helpless and ice bound in the Arctic seas; her final destruction left her officers and crew with a journey before them of unknown extent, through a boundless region of ice and snow, ere they could hope to reach even the furthermost limits of civilization. On the 18th of June, 1881, that journey commenced (pp. 39–45–98). For the purposes of the retreat the members of the expedition were divided into three parties, commanded, respectively, by Lieutenant-Commander De Long, Lieutenant Chipp, and Chief Engineer Melville (p. 265). Until the 12th of September following they were able to continue within sight of each other; they then became separated (p. 115); Lieutenant Chipp and party were never

heard of. The remains of De Long and his companions were discovered the survivors of the expedition, in the latter part of March, 1882 (p. 151). e journal kept by De Long (p. 279), and found with his body, it appears ctober 9, being the 119th day of the retreat, their provisions had nearly The last entry was made October 30, the 140th day of the retreat. Seven eleven members of the expedition who continued with De Long had then rom starvation, one was dying, and the death of De Long and his three companions must, in all probability, have followed within a few hours

's connection with the expedition from the time it left California in July, l his death in October, 1881, embraced a period of about twenty-eight which six were consumed in reaching and penetrating the Arctic seas, ı comparative inactivity, while the Jeannette was entangled in the ice, and disastrous retreat and fruitless endeavors to reach a place of safety after ction.

idence reposed in Lieutenant-Commander De Long is best shown by the ıctions addressed to him by the Secretary of the Navy, under date of June . 292). Referring to "the important and hazardous service" intrusted to ecretary said: "In the execution of this service the Department must leave to your experience, discretion, and judgment. It has full confidence in y in all matters connected with the safety and discipline of the ship, the comfort of the officers and crew, and the faithful prosecution of the object ıge." That this confidence was not misplaced is shown by findings of the ıquiry (p. 266), which stated that "beside the mention already made, spe- endation is due to Lieutenant-Commander De Long for the high qualities by him in the conduct of the expedition," and (p. 262) that for the loss of ette the court attached no blame to any officer or man.

gard to the results obtained, notwithstanding the series of disasters which l both the expedition and the lives of most of its members, the court found that throughout the expedition every opportunity was improved for gain- ific information. Meteorological and astronomical observations, tempera- ensity of the sea-water, and soundings were taken and preserved; studies racter and action of the ice were noted; specimens of the bottom and such flora as could be procured were examined. Three islands were discovered, ich were visited, explored, and taken in the name of the United States.

*Personal narrative of the life of Lieutenant De Long.*

(To Senator Blair.)

W. De Long was born August 22, 1844, of a family of Huguenot descent. r was almost morbidly solicitous for him, so that he was jealously guarded rdinary sports of boyhood. His spirit and energy, hemmed in upon the ad- side, found exercise in an intellectual ardor. He was restless and filled ıeasy desire for larger liberty.

was eleven or twelve years of age he fell in with some tales of naval ex- ıe war of 1812, which recounted the heroism of young midshipmen, Porter gut being especially named, and his ambition was kindled to make as great on for himself in the same profession. His parents objected to the dangers career for their son, and it was only after a long struggle that they gave ent, provided he himself could obtain his appointment. To their surprise, ed, entered the Naval Academy in 1861, and graduated in 1865.

ary, 1873, Lieutenant De Long was ordered to the U. S. S. Juniata, which ıed to the North Atlantic squadron. While at New York, in May of the , news came that Captain Tyson and eighteen others of the crew of the loring steamer Polaris had been picked up by a whaler while floating south lor. The United States Government determined to send a man-of-war to of that vessel, and the Juniata was selected for that duty. Lieutenant De red into the plans of the voyage with alacrity, and announced before start- ention of volunteering for any unusual duty which might arise.

aching Upernavik, Greenland, without coming upon any further intelli- he Polaris, it was not deemed prudent to take the Juniata farther to the was thought best to send a boat expedition along the coast, and Lieutenant t once volunteered to take command of the search party. He was accepted, llowing extract from a letter, written after the expedition, gives some idea ıressions which his experience left upon him:

"U. S. S. JUNIATA, GODHAVEN, DISCO ISLAND, GREENLAND,
"*August* 19, 1873.

ıme there will be no question as to our having tried our best to find the nd as to our having tried every means to accomplish it; but it was a physi-

cal impossibility to drive our boat through ice 4 feet in thickness, and so we were compelled to turn back. I made a long report of the expedition, covering 23 pages of official paper, and, of course, I cannot give you such a complete description of it in one letter. * * *

"Our boat, to begin with, was a small one, and we were loaded down with coal and what provisions we should require. The great object was to carry coal so that we might be able to steam, and we filled up every available nook and corner with that precious article. We had to sleep upon coal, and that made a hard bed, I assure you; and when you add to that the fact that we were wet to the skin almost from the time of our start, with our blankets soaking wet always, you can understand that we had very little comfort and less rest. We had eight in our party, and kept watch and watch, of course, and in bad weather all hands had to be around. Cooped up in a small space there could be no distinction made between officers and men, and we turned in and out with each other.

"I cannot give you any very accurate idea of our trip without writing a fearfully long letter, and so I will only refer to the leading incidents. About 120 miles to the northward of Upernavik we were caught in the ice. Now, being caught in the ice means starving to death or being frozen to death, if you have to stay there. We got caught in it by accident, for we were following a lead in the ice when a thick fog shut in and new ice commenced forming around us. On attempting to work back the way we had come we missed our track and were brought up standing. Such a night of anxiety I hope never to have again. We were fast, ice was making around us and thickening all the time; nothing to be seen for miles but ice. Mr. Dodge, who had spent a long time in this part of the world, shook his head rather dubiously. Still I was not disposed to give up without a fight. We kept ramming the ice all the time, trying to drive through it, running into every little crack we made, grinding and scraping, trying to break through ahead of the boat so as to make a clearance. Sometimes we would get into a narrow lane of water and run along nicely for 100 feet or so, and then, bang! we were again at a standstill. This continued for twelve hours, and finally we got clear.

"Our real mishap was getting in a gale of wind when about 8 miles from Cape York. We had been on the edge of the ice-pack looking for an opening in a thick fog when this gale came on, and for thirty hours we were, without doubt, on the brink of eternity. The boat was nearly all the time buried by the sea; she was half full of water; we were surrounded by icebergs a hundred feet at least in height. The broken pieces of ice were being hurled like stones on the face of this ice-pack and ground to powder, or else thrown over and over like lava from a volcano. Had we struck this ice our chances would have been slim; in fact I would rather have been in the worst surf that exists than have been thrown up against this terrible wall. Looking back at it now makes me tremble, and I can only say that it was a miracle of Divine Providence that we were saved. When the gale broke we were in a pitiable condition—hungry, cold, and wet—not a dry thing in the boat. The ice was all heaped up between us and Cape York, and getting through it was an impossibility. Our coal was nearly all gone, and we had yet to get back to the ship. I had to decide to return, and had we not been favored by a breeze, we would not have reached here yet. As it was, when we met the Tigress we were burning pork in the furnace to get into Tessi-Ulssak.

"Captain Braine and all hands seemed overjoyed to get us back. It appeared when the Tigress met the Juniata at Upernavik, Captain Tyson, who was one of the survivors picked up on the ice-floe, expressed the opinion that we were as good as lost if we met any bad weather, and that set everybody to thinking very seriously how perilous a journey we had undertaken. What the people on board the Tigress could not understand was my volunteering for the expedition, and many sad shakes of the head and sayings of 'Poor De Long' showed how little they expected to see me back. When the Juniata sighted us returning the ship was wild with excitement, the men manning the rigging and cheering us until we came alongside. When I stepped over the side so buried in furs as to be almost invisible, they made as much fuss over me as if I had risen from the dead, and when the captain shook hands with me he was trembling from head to foot."

Captain Markham, who was on the last English expedition under Sir George Nares, considered this boat journey as one of the most hazardous and venturesome undertakings he had ever known. Men to save their own lives will take such risks, but they rarely court them to save others. Melville Bay is renowned for its dangers, and whole fleets of whalers have been crushed in the ice which crowds it.

The Juniata shortly after returned to New York, and Lieutenant De Long wrote to the Department tendering his services in event of another Arctic expedition. This indomitable energy, strong will, and passion for overcoming obstacles all tended to develop in him that Arctic fever which so often fastens upon one who has once known the excitement, difficulty, and peril of northern exploration.

At the same time Mr. De Long wrote to Mr. Bennett, who was then in Paris, and

oposed to him the undertaking of an Arctic expedition. Mr. Bennett had already nsidered such an expedition, he replied, and upon his return to this country in 74 a personal interview with his correspondent convinced him at once that the most nportant element in the expedition, the man to command, was determined.

The Pandora was found to be the most suitable vessel after a long search, and she as purchased in England from Sir Allen Young, an explorer of note, who had himself made three expeditions in her to the Arctic seas. She was christened the Jeanette at Havre, France, and on July 15, 1878, she sailed, under the command of Lieutenant De Long, from that port for San Francisco, Cal., reaching there December 27, 878.

By the acts of Congress of March 18, 1878, and February 27, 1879, the Secretary of he Navy was authorized to accept for the purpose of exploration by the way of Behring Strait the ship Jeannette, tendered by James Gordon Bennett for that purpose.

The reasons which determined the course of the exploration, besides the failures rom other points, were, in brief, the existence of the Japan current, flowing, as it ras then thought, through Behring Strait to the north, and the supposed extent of Wrangel Land. It was hoped that the warm waters would open a way possibly to the ole. The experience of whalers was that whenever they had been obliged to abandon their vessels in those regions, the vessels had been drifted northward; the inference was that the currents generally flowed in that direction. This would help explorers to make a high latitude, though it would, for the same reason, increase the iifficulties of return. On the supposition that Wrangel Land, now known to be a mall island, was a vast continental tract, it was expected that the Jeannette, in accordance with settled principles of Polar exploration, would follow its coast line to the north. When the vessel could work no further, sledge expeditions were to start out along the ice-foot to make a still higher latitude. Added to these considerations was the comparative novelty of this course, which would render the expedition fruitful in observation and discovery, even if it failed of its main object.

Besides, the voyage had a humanitarian purpose as well. This paragraph from the orders for the expedition, given Lieutenant De Long by the Secretary of the Navy, will show:

"June 18, 1879. On reaching Behring Strait you will make diligent inquiry at such points where you deem it likely that information can be obtained concerning the fate of Professor Nordenskjöld, as the Department has been unable to have positive confirmation of the reports of his safety. If you have good and sufficient reasons for believing that he is safe, you will proceed on your voyage to the North Pole. If otherwise, you will pursue such course as in your judgment is necessary for his aid and relief."

Secretary Thompson has since said, in a speech delivered in Washington, D. C., September 23, 1882: "Mr. Bennett early suggested and urged upon the Department that Lieutenant De Long should be assigned the command of the expedition. The Navy Department would have been justified in not making the appointment unless assured that De Long possessed the other qualifications, aside from professional ability, necessary to the discharge of such a duty. As regarded his professional skill, his brother officers in the Navy bore universal attestation to that, and the Department was aware that in this respect he possessed all that was necessary. It did not take many interviews with De Long to tell that he was a man of courage, devotion, judgment, and will, and possessed all the qualities which fitted him for this duty."

The experience which he had known when in command of the "Little Juniata" had given him a practical knowledge of some of the difficulties attendant upon Arctic exploration, and had assured him that he was not wanting in the qualities of an explorer. The more he pondered upon the problem of the North Pole, the greater became his desire to help in its solution, and if possible to give that answer which alone would satisfy the world. He never disguised from himself the seriousness of the task he had essayed, nor imagined that he was to win a high reputation by some happy turn of fortune. He belonged to the men who have cared for great things, not to bring themselves honor, but because doing great things would alone satify their natures, and he entered upon the work before him with a single-minded earnestness and a brave trust in God.

The Jeannette sailed from San Francisco, Cal., July 8, 1879. She called at Ounalaska, Aleutian Islands, to take on board extra stores and furs, and at St. Michaels, Alaska, to meet her supply vessel, the Fanny A. Hyde. At the last moment, by some inexplicable reason on the part of the Government, three weeks were lost to the expedition from the necessity of chartering this schooner as consort, when a Government steamer, as usual, had been promised as convoy from the start.

This detention and the searching along the coast for tidings of Nordenskjöld very seriously jeopardized the prospects of the first season's work. Therefore, when the Jeannette reached the ice barrier on the 3d of September, Captain De Long was placed at a great disadvantage. He had either to return to some southern port and spend nine months in inaction, to the demoralization of his men and the useless expenditure of

coal and stores, or attempt to reach Wrangel Land by working through the pack. To any man of courage, devoted to his duty, this was the only proper alternative, and the chances were favorable enough to his reaching the land, and to his establishing his winter quarters there, to justify the effort.

After exploring two or three leads in the ice, a large one in the general direction of Wrangel Land was entered. Unfortunately, a thick fog shut down, new ice formed around them, old ice closed in behind them, and the Jeannette was beset. (Two whalers suffered the same fate only a few mile from them, but unknown to them, whose crews perished to a man.)

With the ice-pack the Jeannette drifted for twenty-two months, and the following extract from Lieutenant-Commander De Long's report will give an idea of their daily experiences:

"During the following night we had numerous groans and snaps in our neighborhood, but being sufficiently occupied in watching for any change in our immediate surroundings, no excursions to any distance were undertaken until daylight of the 7th (November). We then found that the lane had closed, the ice coming together with seemingly great pressure, for great heaps of broken floe-pieces were piled up. As the floe immediately surrounding the ship was the stronger, the advancing ice, coming in contact, broke off its edges against the unyielding mass. When I mention that the thickness of these pieces was found to be 7 feet 10 inches, and our own floe was known to be 13 feet 10 inches, some idea can be formed of the immense force which was being exerted at the time of contact and which piled up these mounds with no more difficulty than a plane turns up shavings. As these pressures were going on at only a hundred yards from us, it was not difficult to imagine what might happen from hour to hour; we therefore watched this conflict between ice-floes with some interest but more anxiety.

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"At 11 a. m., to our surprise, the pressure ceased, the advancing ice stopped, and then receded until it left a water lane about 10 yards in width. Down this water lane from E. N. E. we saw steadily advancing a fearful procession of ice of all sizes and shapes, from huge blocks 100 tons in weight to jagged pieces of a couple of hundredweight, in the utmost confusion, shrieking and groaning as they were squeezed and ground against each other, and where the edge of the channel was not of accommodating shape, conveniently breaking off a few tons here and there and shoving it along in front as a road-cleaner. The rate of progress of this confusion was about a half mile an hour. It passed along without serious hindrance until it got in the bend of the channel on our quarter, and then it occasionally jammed. At such times the pressure was tremendous; the smaller pieces passed readily enough, but the large hummocks, or broken floe pieces, would bring up against our floe-dock and cause it to hump up and crack and groan as if it was going to break in all directions. I momentarily expected such to happen, and that the ship would be sent out into this frightful stream of moving ice to battle as she could. For five hours this state of affairs had continued, and it ceased as suddenly as it had begun. The word "Halt," passed along a line of troops, could not have been obeyed more quickly than our ice procession came to rest. * * * So far as was possible, preparations had been made for disaster. Packed sledges were in readiness, traveling-gear at hand, dogs kept inboard, and in an emergency we could have promptly taken to the ice, but whether we would have been any better off was very doubtful.

"The 11th of November was a day of much anxiety and care. At 6 a. m. the trembling and creaking of the ship gave notice that our ice procession had resumed its march. Going out on what little was left of our level ice alongside, we were confronted by a fearful spectacle. The pressures and movements of the previous days were feeble in comparison to what was now going on. Large blocks 25 feet in length, 7 feet in thickness, and in breadth from 6 to 20 feet, were rearing up on end as they advanced, crushing smaller pieces to small lumps, or, toppling over, breaking themselves in all kinds of shapes and sizes, and all this with the most horrible noises, such as can hardly be described. The rumbling of a railway train in a tunnel, the shrieks of a thousand steam-whistles, the crash of a falling house, all combined, would make the nearest approach to the noise which deafened us for four and a half hours. Every few moments a stoppage would occur, some piece having caught under or against our floe; groans and shrieks would arise from the struggling mass, our little foothold would bend up and down, the long tables of heavy ice in the moving stream would rear their heads in the air while adding their pressure to the conflict, when, crash—something gives way, another yard of our dock has gone, and the march is resumed.

"A little of this goes a great ways in disturbing one's calmness, and we were not improved by finding that a break had occurred in the ice across our bows, and that a projecting floeberg from the main stream was forcing its way like a wedge to cut a channel along our port side, and, in again connecting itself with the main stream, cut us off from all connection with that hitherto quiet ice, and hurl us along too. Under these circumstances sleeping or rest of any kind was hardly attainable. At 4.15 a. m.,

'ember 12, the ice got under way again along the whole line. The flowing ice ıam at our side, close as it was, now failed to attract our entire attention, because the more serious advance occurring right ahead of us. The projecting floeberg of terday having crossed our bow, seemed to have given up the attempt to cut a lane ng our port side, and devoted itself to ripping up the small remainder of our ice ck ahead of us, and sweeping us and it out of the way at the same time. Behind is floeberg was a confused mass of piled-up ice, pushing and shoving it into and ainst our dock wall, the whole bearing down toward our stern as fast as a man uld walk. On it came, piling up large blocks in front of it, while the ship shook, rred, and quivered at each surge of ice. All hands had been called and stood ready, it there was really nothing to be done. There was no place to go, and nothing to trust but the possibility of our ship holding together after falling into the tumbling prossion. (At this time, as at many others, I had reason to remark the calmness and mness of every officer and man. No tremor of excitement, no symptom of alarm as apparent; simply facing the inevitable, there was nothing but watching and aiting for developments. Some of us were standing on the roof of the house coverg the forward part of the spar deck, as commanding the best view of the surroundgs. Suddenly the advancing mass seemed to gather greater velocity. It appeared to ake one surge of great length and was already under our head-booms. Instinctively e grasped the fore shrouds to keep our places when the crash came, for that the next oment would see us crushed or whirled along in the ice stream I did not doubt. But that moment the advance stopped, the pressure ceased, and not a sound was to be ard. For two hours and a quarter had our suspense lasted, and as it was before wn, with no moon, these hours had seemed ages. Darkness added much to the rror of the situation, which a temperature of 15° did not mitigate. * * * Such as our condition on the 16th of November, when the sun left us for the winter."

Until January 19, 1880, ice pressures of more or less intensity followed one another, it on that day a great disaster befell the ship. An underrunning tongue of ice inred her bow and caused a very serious leak. After this, incessant pumping and onderful ingenuity alone kept the vessel afloat.

Throughout the expedition every effort was made to secure scientific information. eat care was taken of the general health, and strict attention was paid to the disling of water, and tests as to its purity were made daily.

Three islands were discovered; two of them were landed upon and taken possesn of in the name of the United States.

On June 13, 1881, larger masses of ice piled up against the ship's sides, literally eaking her in two. When she was liberated from this icy grasp she sank, in latide N. 77° 15′, longitude 155° 50′ east.

Every preparation had been made for meeting such an emergency, and the ship was bandoned quietly and without confusion. The national ensign was flying at the izzen.

Provisions and clothing were piled on the ice in greater quantity than could be rried on the retreat. Officers and men were divided into five sledge parties, and ter, when water was met, into three boats' crews. Five days were spent in making reparations, and on June 18 commenced the unparalleled journey over the frozen cean—a journey of 500 miles, dragging boats and provisions, and lasting ninety days.

A southerly course was at first taken, but after marching for several days the comander found, by observation, that the current had taken them 27 miles to the northest of their starting point. This disheartening knowledge he kept to himself to revent general discouragement, and changed his course to southwest, so as to cross his current at right angles and sooner get beyond its influence. By this circumstance Bennett Island was discovered, and landed upon after much toil, disappointment, and nxiety. It was the only land some of them had walked upon in over twenty-two nonths. Here they rested, explored the island, made tidal observations, and placed he position of the island accurately upon the chart.

After leaving Bennett Island they were able to make more use of their boats. With he hope of deliverance at hand comes the gloomiest portion of the journal, for they vere doomed to another imprisonment in the ice. By the detention of a quarter of n hour, caused by the boat under Lieutenant Chipp's command, ten days were lost, nd the care and anxiety upon the captain's mind were intense. From this time forth nisfortune closes in, and strong, unbending will struggles with ruthless circumtances. In September they make the new Siberian Islands and push out from them or the Lena Delta. September 11, Sunday, they rest on Semanooski Island, and Monday they start on their last boat journey to the coast. A gale overtakes them, nd the three boats in which the ship's company is divided are separated. The secnd cutter, under Lieutenant Chipp, is never seen again; the whale-boat, under Chief Engineer Melville, reaches the east branch of the Lena River, is met by natives and he party rescued, and the commander in the first cutter reaches the northern mouth f the Delta.

His chart he finds is worthless, the settlement marked thereon does not exist, and

only thirty miles west of his landing place is a village of one hundred inhabitants entirely unknown to him; in fact, at that time unknown to the Russian and Siberian authorities. His party is crippled by cold and hunger; here and there they meet a deserted hut, but no natives. (Natives did follow in behind them, and could have saved them, but from want of intelligence and fear they ran from the strangers and kept all knowledge of their existence to themselves until months later.) Some of the party are crippled, but the captain will not desert them. He says, "No one shall be abandoned so long as one man lives to help another." Ericksen, one of the sailors, is dragged on a sled through that fearful wilderness until he dies.

A month after landing on that inhospitable shore, Lieutenant-Commander De Long, facing death, sends two men ahead to seek relief. Seven weeks later these two are met by Mr. Melville, and they are the only survivors of the commander's party.

Starving, frozen, weak, and exhausted, the captain and remainder of his little band can go but a few miles further, and they sit down to await help. The journal kept with so much care and devotion continues here, but its entries grow nervously short.

"*Friday, October* 21 (131*st day*).—Fraack was found dead about midnight, between the doctor and myself. Lee died about noon. Read prayers for sick when we found he was going.

"*Saturday, October* 22 (132*d day*).—Too weak to carry the bodies of Lee and Fraack out on the ice. The doctor, Collins, and I carried them around the corner out of sight. Then my eye closed up.

"*Sunday, October* 23 (133*d day*).—Everybody pretty weak; slept or rested all day, and then managed to get enough wood in before dark. Read part of Divine service. Suffering in our feet. No foot-gear.

"*Monday, October* 24 (134*th day*).—A hard night.

"*Tuesday, October* 25 (135*th day*).

"*Wednesday, October* 26 (136*th day*).

"*Thursday, October* 27 (137*th day*).—Iveson broken down.

"*Friday, October* 28 (138*th day*).—Dressler died during night.

"*Sunday, October* 30 (140*th day*).—Boyd and Goertz died during night. Mr. Collins dying."

Even at the last De Long's self-possession and officer-like deliberation do not desert him. Not one qualm about self or his own suffering disturbs him. The frozen fingers are stiffened only by death; the last thought is for the preservation of the record. The snow falls and covers him as with a pall, and months afterwards, when uncovered by his comrade Melville, his hand is found still raised in the air, his journal is a few feet behind him, where, to save it from the camp-fire, with his last strength he has thrown it; his pencil lies by his side.

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*Extracts from letters from the honorable Secretary of the Navy to Mrs. De Long.*

NAVY DEPARTMENT,
*Washington, D. C., January* 6, 1882.

* * * * * * *

The court of inquiry is drawing to a close. I am happy to realize that no fact has appeared from which neglect or blame could be attributed to Lieutenant-Commander De Long, but that, on the contrary, all the facts showed great sense, wisdom, and courage on his part, and that he is entitled to every commendation.

Very truly, yours,

WM. E. CHANDLER.

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NOVEMBER 21, 1883.

* * * * * * *

The narrative of those last days of the heroic sufferers is pathetic and saddening beyond comparison. Lieutenant-Commander De Long was a complete man, full of the noblest qualities, and worthy of the highest eulogy.

WM. E. CHANDLER.

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FEBRUARY 18, 1884.

* * * * * * *

It has been a high privilege to myself and to all co-operating Naval officers to aid in doing appropriate honors to the last remains and to the memories of so brave a band as that which struggled so heroically and perished so forlornly in the snows of Siberia.

Very truly, yours,

WM. E. CHANDLER.

*Extract from a letter from Sir Allen Young, R. N. R., to Mrs. De Long.*

* * * * * * *

Nothing that I can say would add to the revered memory of poor De Long, for we all know too well how nobly he undertook the risk and responsibility of the late hazardous expedition, and how conscientiously he fulfilled his duty from first to last.

All who had the honor and pleasure of his acquaintance and friendship can bear testimony to his zeal and energy, and to the care and anxiety with which he entered into the very difficult and responsible duty which was intrusted to him. That the Jeannette survived so long and through such a period of continuous exposure to all the dangers attending an ice drift, is alone a proof of her extraordinary strength and good qualities. And the fact of the ship's company having retained their health throughout those dreadful winters, through which they had to face all the hardships, dangers, and monotony attending their prolonged imprisonment in the ice-pack, together with the story of their brilliant retreat after the loss of their ship, all proves most convincingly how anxiously poor Captain De Long must have studied every detail of discipline, and the comfort and care of his officers and men.

The melancholy fate which attended the expedition after arriving on the inhospitable shores of Siberia can only be attributed to circumstances far beyond all human control, and it is left to us to deplore the loss of these brave and gallant men who sacrificed their lives in the performance of their duty.

Believe me to remain, dear Mrs. De Long, yours very truly,

ALLEN YOUNG.

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*Letter from Lord Aberdare to Mrs. De Long.*

1 SABILE ROW, BURLINGTON GARDENS, W.,
*December* 10, 1883.

MADAM: In the name and on behalf of the council of the Royal Geographical Society, it is with feelings of warm sympathy that I convey to you the congratulations of that body on the publication of the journals of your late gallant husband.

If anything could increase the regret that is felt by geographers at the loss of Lieutenant De Long, it would be the evidence which abounds in his journal of those noble qualities which endeared him to the officers and men who served under his command, in the daring and difficult enterprise which he strove so gallantly to achieve.

If events had been ordained otherwise, it would have been the pleasant duty of the Royal Geographical Society to welcome Lieutenant De Long on his return, and to give due recognition to the great service he performed to geography. It now only remains for the president and council to express their sense of the great loss that geographical science has sustained, and to request the widow of Lieutenant De Long to accept our heartfelt sympathy in her sorrow, a sorrow which is shared not only by geographers, but by all who admire those qualities which were so eminently displayed in the life of her late gallant husband.

I have the honor to remain, madam, your very obedient servant,

ABERDARE,
*President Royal Geographical Society.*

JANUARY 16, 1885.—Ordered to be printed.

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,AIR, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 3703.]

Committee on Pensions, to whom was referred the bill (H. R. ;ranting a pension to James W. Brown, have examined the same port favorably, and recommend its passage.

facts are stated in the House report:

; W. Brown was a member of Troop L, First New Hampshire Cavalry, enlist- 862 and serving bravely and faithfully until the discharge of the regiment in 865. About the 1st of March, 1865, while crossing Cedar Creek, Virginia, his ›undered and fell, throwing him across the pommel of his saddle, and injuring ›everely that he had to be put into an ambulance, where he remained four or ;s, the troops being upon the march. Lieut. William H. Palmer, in command ompany, testifies that he was an eye-witness to the accident, and that Brown ıred internally, but he made no personal examination of the injuries. The rson making such examination was a surgeon unknown to Brown, who re- a rupture and gave him a swathe, which he wore until his return home in Brown's claim for pension has been rejected on account of his inability to required evidence of the existence of disability in the service. He was un- ıably sound at enlistment. Immediately after his return home, as is shown ral witnesses, he was suffering from a rupture, which he invariably ascribed , as before stated.

vidence is, the committee think, conclusive that his injury was so received, ›mmend that his name be placed upon the pension rolls, subject to the pro- ınd limitations of the pension laws.

O

JANUARY 16, 1885.—Ordered to be printed.

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AIR, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 6461.]

Committee on Pensions, to whom was referred House bill No. anting a pension to Nelson Gammons, have examined the same ort favorably thereon, recommending its passage.
ommittee refer to the House report for the facts in this case.

[House Report 1499, Forty-eighth Congress, first session.]

*nittee on Invalid Pensions, to whom was referred the bill (H. R. 6461) granting a pension to Nelson Gammons, report:*

Nelson Gammons enlisted in the military service of the United States as a n Company K, Thirty-third Regiment Massachusetts Volunteers, June 9, 1862, three years, but was honorably discharged November 27, 1862, for disability. , 1879, he filed a declaration for pension, and, on the 27th of March, 1880, he ipplemental petition, alleging that in October, 1862, at Alexandria, Va., he cked by severe pains and weakness in loins, side, and kidneys, from exposure on the ground; that he was treated in Wolfe Street Hospital, Alexandria, l discharged. The records of the Surgeon-General's Office show the admis- he soldier to the hospital, as alleged in his declaration, but do not disclose re of his disability. John E. Summers, surgeon in charge of the Wolfe Street , says in a medical certificate for the discharge of the soldier, dated November

e carefully examined the said Nelson Gammons, and find him incapable of ng the duties of a soldier, because of general debility, with great emaciation; -three years."
lanchard, of Wakefield, Mass., testifies, October 2, 1880—
prior to his enlistment claimant was in the employ of the Boston and Maine Company, of which witness was agent, and at that time claimant was in bust health, and performed his duties with the same punctuality and regu- at was observed in others of full physical development. At the time of en- claimant was not sick, to affiant's knowledge, nor in any way disqualified ng his full allotment of labor. After his return from the Army he began to

him, and has noticed him failing in health from time to time, until compelled to give up work altogether, and is now confined to the house in the pleasantest weather. He has not been able to work for seven years. This affidavit was filed April 29, 1881.

Charles Jordan, M. D., of Wakefield, Mass., testifies, in affidavit filed July 10, 1880, and July 5, 1881—

"That he has known the claimant for eighteen years, and by being his family physician has had very good opportunities for knowing his physical condition. Commenced treating him in 1863 and has prescribed for him from year to year, but he did not require constant treatment until 1878, when he had a severe hemorrhage of the lungs, which has debilitated him to such an extent that he has not been able to do any work since. First treatment was for chronic dieurysmus and next for bronchitis, since which time he has been very feeble."

Julius C. Clark, M. D., United States examining surgeon, Melrose, Mass., in an examination of claimant, in pursuance of an order of the Pension Office, September 30, 1880, says:

"Suffers from irritable kidney, debility, and emaciation; probably acute inflammation of kidney; is now in a pitiable condition; habits are undoubtedly good; entitled to $8 per month, if anything."

February 21, 1883, claimant was examined by the United States board of pension examining surgeons of Suffolk County, Massachusetts, who say in their report:

"We find a weak and feeble old man, who would answer very well to the ordinary description of a dependent father. ' An examination of his urine shows it to be of sp. gr. 1014, and contains albumen. He is emaciated to the last degree. He has a cough and expectorated in our presence. Auscultation shows fine and coarse rales indicative of chronic bronchitis. Percussion and auscultation shows his heart to be wholly transposed to right side, its after beat being hard and full in third intercostal space of right side, just above nipple. We are inclined to believe this to be a congenital condition since the inspiration is heard equally throughout both lungs. We rate in general debility, if of any origin, at second grade."

December 2, 1882, and previous to the examination above given, the case was placed in the hands of a special examiner of the Pension Office, who took the depositions of a number of witnesses at the home of claimant, whose testimony agrees in all respects with the facts set out in this report, and who are shown to be reputable citizens of the place in which they reside. In his report the special examiner says claimant is seventy-three years old, is very poor, and slowly dying of some pulmonary disease, but recommends the rejection of the claim on the ground that his present ailments are not due to disease contracted while in the military service of the United States.

January 9, 1883, the evidence in the case was referred to the board of review, who reported, February 2, 1883:

"The general disability for which claimant was discharged was contracted in the service. I find no evidence to show soldier unsound at enlistment. The record shows him disabled at discharge. I think him entitled to only a very slight rating, if any.

"W. W. KINSLEY,
"*Reviewer.*"

March 10, 1883, the claim was rejected by the medical referee of the Pension Office on the ground of no pensionable disability from cause alleged since discharge.

We have given very careful consideration to the evidence on file in this case, and find this soldier was an able-bodied man, though past the age at which men ordinarily enter the military service, and find, as is shown by the reviewer of the Pension Office, that he was discharged for the disability for which he now asks a pension.

In addition to the testimony of neighbors in support of this claim there is a very strongly worded and numerously signed petition of the members of Post Twelve of the Grand Army of the Republic of the Department of Massachusetts, addressed to the Commissioner of Pensions, filed June 16, 1883, as follows:

"*To the honorable Commissioner of Pensions, Washington, D. C.:*

"The undersigned, officers and members of Post 12, department of Massachusetts, Grand Army of the Republic, respectfully represent: That they are personally acquainted with Mr. Nelson Gammons, late of Company K, Thirty-third Regiment Massachuetts Volunteers, whose claim for pension, No. 285634, has been rejected, and that they are fully persuaded that his said claim is a just claim, and respectfully ask that his said claim may be reopened and such action taken therein as will insure a prompt recognition of meritorious service.

"Ever since the return of Mr. Gammons from the Army he has been gradually failing; from doing a partial day's work, until within the past few years, he has been entirely disabled and is now very feeble, and we believe that his disability is the result from *exposure* while in the service of the United States and in the line of his duty. This

ability is not of recent date, but has existed and continued for years, and as citizens o have long known him, and have for a long time believed him fully entitled to vernment aid, we respectfully but earnestly ask that special effort on our part may met by prompt action on the part of Government; that he may receive some benefit ore his death of health entirely lost by reason of services for his country.

"WILLIAM N. TYLER.
"S. B. DEARBORN, *Commander Post* 12, *G. A. R.*
"OLIVER WALTON, *S. V. C., Post* 12, *G. A. R.*
"JUSTIN HOWARD, *J. V. C., Post* 12, *G. A. R.*
"JASON H. KNIGHT, *O. D., Post* 12, *G. A. R.*
"EDW'D P. COLBY, M. D., *Surgeon Post* 12, *G. A. R.*
"RUEL P. BUZZELL, *Quartermaster Post* 12, *G. A. R.*
"JEROME S. NILES, *Quartermaster-Sergeant.*
"A. S. ATHERTON, *Adjutant, Representative to General Court.*
"W. T. HARRIS, *Sergeant-Major, Representative to General Court.*

'And thirty-nine others, members of the Post."

'our committee are clearly of the opinion that this poor old man, now an object of rity, should be provided for by the Government in whose service his disability was tracted, and therefore recommend the passage of the accompaning bill.

:H CONGRESS, 2d Session. } SENATE. { REPORT No. 1014.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1885.—Ordered to be printed.

:. BLAIR, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 2204.]

The Committee on Pensions, to whom was referred the bill (S. 2204) ·anting arrears of pension to Nancy B. Leach, mother of Bradford ɜach, have examined the same and report recommending the passage · the same.

The committee desire to submit the exact point involved in this case. he original application was duly made and executed February 11, 1879. ; was actually filed June 25, 1881, and the proof sustaining the claim. ; was allowed, and certificate No. 205323 issued to the dependent ıother, carrying pension at the rate of $8 per month. The claimant ıpposed that her application was on file until long after the 1st day of ıly, 1880, the period of limitation under the arrears-of-pension act. he claimant has no practical remedy unless relieved by special act.

Mr. Hill, the attorney employed, is a reputable citizen, who has held ɜsponsible positions of public trust, and an honest attorney at law in ood standing in the profession.

The affidavits of Hon. James E. French and of Hon. David H. Hill are ɜrewith submitted, which establish all the remaining facts necessary · be stated.

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I, James E. French, of Moultonborough, in the county of Carroll, State of New ampshire, make oath and say, am well acquainted with Nancy B. Leach, holder of nsion certificate No. 205323. I well remember the time she made her application r a pension, because it was at my suggestion that she applied to Hon. David H. Hill, Sandwich, to assist her, and it was in the winter of 1879; said Hill afterwards in-rmed me that said claim was filed, and said claimant was so informed several times ior to July 1, 1880.

I have no interest in said claim for a pension.

JAMES E. FRENCH.

Sworn to and subscribed before me this 9th day of December, A. D. 1884, and I ɜreby certify that I have no interest in the prosecution of this claim.

[SEAL.]

W. A. HEARD,
*Clerk of Supreme Court.*

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I, David H. Hill, of Sandwich, in the county of Carroll, and State of New Hamp-hire, depose and say that I acted as attorney for Nancy B. Leach in matter of pen-ion for her as dependent mother. The declaration was drawn by me and taken to William A. Heard, clerk of supreme court, to be executed, as I now remember it.

I think we returned to my office, and I put the declaration in an envelope and put ·tamp on for postage. It was understood that it was to go by that mail.

I supposed for a long time that it went that day, and so informed Mrs. Leach. The papers were thus completed, and sealed and stamped at the time of their date. I had no doubt of it until a student in my office called my attention to an envelope thus sealed and stamped, which he said he had found among other papers which he thought he had packed away as papers no longer useful, and asked me if there was not something that had been overlooked. I at once sent them to George N. French, a clerk in Treasury Department, to file at the Pension Office. Within ten days he wrote to me that they were filed, and they were sent to said French just a few days before I was informed that they were filed. I cannot be positive how they were first overlooked, but believe that my student, A. B. Fosker, of said Sandwich, took some letters to the mail for me, and Mrs. Leach and myself both supposed he had taken the Leach papers with them, and continued so to think until they were discovered by said Fosker, as above described.

My post-office address is Sandwich Center, Carroll County, and State of New Hampshire, and I have no present interest in the pension claim of Mrs. Lerch.

DAVID H. HILL.

Sworn to and subscribed before me this 9th day of December, A. D. 1884, and I hereby certify that I have no interest in the prosecution of this claim.

[SEAL.] W. A. HEARD,
*Clerk of Supreme Court.*

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ONGRESS, } SENATE. { REPORT
Session. } { No. 1015.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1885.—Ordered to be printed.

CKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 1504.]

*mmittee on Pensions, to whom was referred the bill (H. R. 1504) for elief of Millia Staples, have examined the same, and report as fol-*

facts of this case are set forth in the report of the House Com-
on Invalid Pensions, as follows:

ommittee on Invalid Pensions, to whom was referred House bill 1504 for the
Millia Staples, have had the same under consideration, and report it back
recommendation that it do pass.
nin T. Staples was appointed adjutant of the First Tennessee Cavalry in
1863, at the commencement of recruiting and organizing said regiment. An-
hnson, then military governor of Tennessee, authorized R. A. Davis to recruit
said regiment, and commissioned him as lieutenant-colonel, and Lieut. Col.
vis, after personal consultation with Governor Johnson, appointed said Staples
as aforesaid, with the rank of first lieutenant. Lieut. Col. R. A. Davis, and
ant and Adjutant Benjamin T. Staples and other members of said regiment left
t, Ky., previous to the 18th day of March, 1863, for the purpose of proceeding
order counties of Tennessee in order to meet refugees coming out of the Con-
into the Union lines, and enlisting them in the military service, and thus
ng the maximum of said regiment.
about the 18th day of March, 1863, when said recruiting squad was halted at
called Pine Knob, near the Tennessee line, they were attacked by a portion of
s forces, and said Staples was wounded and taken prisoner. Others were
cluding the major of said regiment.
stimony, which is thoroughly reliable, shows that—
r his capture said Staples was conveyed to Monticello, Ky., and was started
re under charge of a portion of the notorious Champe Ferguson's guerrilla
d, ostensibly for Knoxville, Tenn., a prisoner; but when a few miles from
llo, and on or about the 22d day of March, 1863, said Staples was shot and
y said command. Affiant further states that at the time said Staples was
d and captured he was discharging his duty under the appointment of adju-
t he had received."
s from the affidavit of Lieut. Col. R. A. Davis, who had given said Staples the
ment of adjutant by the advice and approval of the military governor, Andrew

roof shows Lieutenant-Colonel Davis to have been present and wounded, but
, and afterwards completed the organization of his regiment and served with
ion. Although appointed as aforesaid, the said Benjamin T. Staples had not
istered and thus enrolled as adjutant. And it seems that on the final comple-
l organization of said Eleventh Tennessee Cavalry no notice was taken of the
s appointment of said Staples to the adjutancy of said regiment, and there is
d of his appointment and service. Therefore his widow has never applied to
missioner of Pensions, but now asks Congress to recognize the services and

death of her husband by placing her on the pension-rolls as the widow of a first lieutenant of cavalry volunteers. Said Staples was a prominent Union leader in East Tennessee, and rendered much valuable service to the Union cause and to the Union Army before he entered the military service of the Government. His widow is now old and needs pecuniary assistance, which your committee are of opinion should be granted by the passage of the bill herein recommended.

Your committee concur in thinking that relief should be granted to the widow in this case, and accordingly report back the bill with recommendation that it be passed by the Senate.

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TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1016.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1885.—Ordered to be printed.

[r. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

*The Committee on Pensions, to whom was referred the petition of Martha A. F. Terrett, praying for an increase of pension to her, examined the same and reports:*

That this case was adversely reported to the Senate from this committee June 11, 1884, accompanied by the following report, viz:

[Senate Report No. 650, Forty-eighth Congress, first session.]

*he Committee on Pensions, to whom was referred the petition of Martha A. F. Terrett, widow of Colville Terrett, late a lieutenant in the United States Navy, for an increase of pension, having duly considered the same, report:*

That the petition represents that the petitioner—

"Is the widow of Colville Terrett, a lieutenant of the United States Navy, who, ith all on board, was lost in the United States steamer Levant, in the Pacific Ocean, the year 1860, and that she is one of the very few of the widows of the officers and ew who went down in said ship now living. That the said United States steamer vant sailed from Honolulu, Sandwich Islands, on or about September, 1860, and no ings or trace of her were ever heard or seen."

It appears that the petitioner was pensioned in 1862 at $25 per month from June 30, 61, the supposed date of the officer's death, with $2 each per month increase on account of two children under the age of sixteen years.

It also appears from the petition that the petitioner was granted "by the act of ly, 1861, in addition to the pension, one year's back pay and $2,000."

It further appears from said petition that petitioner's husband left no property at "a small house in the city of Washington, and an unimproved farm of 100 acres Fairfax County, Virginia," and that from the pension, grants from the Government oresaid, and the sale of the house in Washington, petitioner was enabled to support d educate her children.

The petitioner further represents—

"That the farm in Fairfax County, Virginia, was almost constantly occupied durg the war of the rebellion by the Union forces; that she was residing near said farm the time of the battle of Bull Run, Virginia, July 21, 1861; that she gave all the ovisions in her possession to the Union troops during their retreat; that having no otection—her brother being in the Union Army—she was forced to come to the city Washington. That by reason of her forced absence from her place, the fences were stroyed and the timber was cut and used by the United States forces, for which she s not received adequate compensation, and that she has not been able to use or disse of the place.

"That she is now, and has been for a number of years, in very reduced circumances, mostly dependent on her pension for support.

"That by reason of the long, continuous agony and suspense to which she was bject—it being several years before she could give up all hopes of her husband ing saved—her health became greatly shattered, and she has been, and is yet, a eat sufferer.

"That her husband, the said Colville Terrett, had he survived until now, would ve held the rank of rear admiral, and that she and her family have been deprived all the benefits which would have accrued to them by his gradual increase of rank.

"That for these and for other considerations which could be mentioned, but which will naturally suggest themselves in such a case, your petitioner asks that her pension be increased to $50 a month as a small compensation to her, and to aid her in her declining years."

Notwithstanding the appeal which this petition presents, and the grounds on which it is based, the committee, in view of the multitude of cases not so well provided for under the pension laws as this one is, is constrained to report adversely to the prayer of the petitioner. The pension which the petitioner is receiving is not an approach towards a compensation for such a loss as she has sustained, nor would be the increase prayed for. She now receives the benefit of the general rule established by law for the relief of such cases, and the inadequacy thereof applies to so many others that it is quite impossible to make them all exceptions and enlarge the rates of the pensions granted, as asked for in this instance.

The committee therefore recommend the indefinite postponement of the petition.

This report was concurred in June 11, 1884, but was reconsidered June 21, and recommitted to the committee for further consideration. The committee see no reason for changing its judgment relative to the case, and reports it to the Senate, recommending that it be indefinitely postponed.

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48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 101.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 751.]

*The Committee on Pensions, to whom was referred the bill (S. 751) granting a pension to Emma Martin and Harry E. Martin, having examined the same, report as follows:*

That Charles E. Martin, late private in Company F, Twenty-ninth Pennsylvania Volunteers, was pensioned for loss of right leg at $8 per month from July 27, 1865; at $15 per month from June 6, 1866, and at $24 per month from June 4, 1872. He died in 1879. It appears that the soldier was married to one Anna Maria, in Philadelphia, in 1864, during his term of service. There is record evidence of this marriage. In 1864 the said Anna Maria filed a claim for pension under the belief that the soldier died of the wound received at Atlanta, July 21, 1864, and for which he was pensioned as aforesaid. The present claimant, Emma Martin, has also filed her application for pension as the widow of said soldier, alleging marriage with him in 1875. Her claim is still pending in the Pension Office. She has been informed that it will be necessary to produce evidence showing the death or divorce of the first wife, together with proof of her own marriage to the soldier. This evidence was called for in January last. The consideration of the merits of her claim awaits the production of the required evidence. Under such circumstances your committee have uniformly refused to recommend relief by special bill. There is no evidence before us on the above points, called for by the Department.

The committee recommend that the bill be indefinitely postponed by the Senate.

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ɔONGRESS, } SENATE. { REPORT
Session. } { No. 1018.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1885.—Ordered to be printed.

ıCKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 2083.]

*ommittee on Pensions, to whom was referred the bill (S. 2083) for the ;f of Fannie R. Giltner, having examined the same, report as fol- :*

t in June, 1878, the said Fannie R. Giltner filed her application nsion as the widow of Bernard Giltner, late private in Captain wan's company, Kentucky militia, during the war of 1812, said Ber- ɟiltner having died on the 20th September, 1870. After investi- , her claim was allowed March 25, 1879, and she was pensioned at te of $8 per month from March 9, 1878. She is still in the receipt ıt pension. The bill proposes to place Mrs. Giltner "on the pen- ɔll under the act of February 14, 1871, and pay her a pension from ter said 14th February, 1871, deducting therefrom any sums already ıer as pension under the subsequent act." March 9, 1878. During ndency of claimant's application in the Pension Office a circular was ɔ her attorney, informing him that if claimant desired to prose- ıer claim under the act of February 14, 1871, she would be re- to furnish proof of her own and of her husband's loyalty during ır of the rebellion. This circular was returned to the Pension with a letter from claimant's attorney, D. G. Falconer, under f March 20, 1879, stating that "claimant desires to have her claim nd prosecuted under the act of March 9, 1878, so as to dispense roof of loyalty during the late war." Upon the receipt of this the claim, as requested, was adjudicated under the said act of 9, 1878. The claimant has never complied with the requirements act of February 14, 1871, and having, through her attorney of , made her election to take under the act of 1878, which dispensed roof of loyalty, she should not now be granted the relief proposed ɔ bill, even if the provisions of the act of February 14, 1871, were ied with. Your committee are of the opinion that the bill should ss, and accordingly recommend that it be indefinitely postponed Senate.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1019.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 342.]

*The Committee on Pensions, to whom was referred the bill (S. 342) to increase the pension of Mrs. Margaret R. Jones, widow of Col. James H. Jones, late of the United States Marine Corps, having examined the same, respectfully report:*

That in March, 1847, James H. Jones was appointed second lieutenant in the United States Marine Corps; that he was promoted to the rank of first lieutenant in 1853; to the rank of captain in May, 1861; lieutenant-colonel, June 10, 1864; and to the rank of colonel, March 16, 1879. He died on the 17th of April, 1880, at the Marine barracks, Boston, Mass., of pneumonia, contracted from exposure to cold while attending the funeral of the late Commodore Thatcher on April 7, 1880. In June, 1880, his widow filed her application for pension, which was granted in September, 1880, at the rate of $30 per month from the date of her husband's death. She is still in receipt of that pension. The bill under consideration proposes to increase her pension to $50 per month. No special circumstances are shown upon which to rest this application for increase. The widow is now receiving the pension fixed by the general law, and your committee see nothing in the case to make her an exception to the general rule. They accordingly recommend that the bill be indefinitely postponed by the Senate.

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ONGRESS, } SENATE. { REPORT
ession. } { No. 1020.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1885.—Ordered to be printed.

ITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 3370.]

*mmittee on Pensions, to whom was referred the bill (H. R. 3370) to d an act entitled "An act granting a pension to A. Schuyler Sutton," oved June 4, 1872, have examined the same, and report:*

case was considered by this committee during the second session Forty-seventh Congress, and a favorable report made thereon, is quoted in the report of the House committee (House Report 12, Forty-eighth Congress, first session), as follows:

> breaking out of the civil war A. Schuyler Sutton, who had seen honorable luring the war with Mexico, was an attorney at law in successful practice at , Ohio. He enlisted as a private soldier in the Ninety-fifth Ohio, and having l a knowledge of military tactics during his former service, greatly assisted in nization, drill, and discipline of the new regiment. There is satisfactory evi- at Sutton had received assurances from Governor Tod, of Ohio, that he should missioned as lieutenant-colonel of the regiment. It is certain that he was act- hat capacity when, at the battle of Richmond, Ky., on or about August 30, received the wound for which he was originally pensioned. Owing to the fact had not been commissioned the Pension Office rated him as a private soldier, wed him a pension at the rate of $8 per month, which was subsequently raised By an act of Congress, approved June 4, 1872, his pension was increased to month from that date.
>
> ommittee believe that it would be an act of simple justice to this soldier to m a pension at this rate, dating from his discharge, deducting the amount by him during the intervening period. His wound has had the effect of his life. His jaws are so anchylosed as to prevent the mastication of solid 'he senses of sight and hearing are much impaired, and he is a constant suf- m violent facial neuralgia. Being unable to open his mouth sufficiently, reason of disorganization of the soft and bony tissues occasioned by the he is unable to employ the ordinary means of cleanliness, and his breath is ently horribly offensive.
>
> opinion of your committee the evidence in the case justifies the conclusion it has arrived, "that the disability for which he is now pensioned existed me of his discharge." We therefore report the bill back to the House with mmendation that it do pass, so amended that said A. Schuyler Sutton be pen- t the rate of $40 per month from and after the passage of this act.
>
> ill passed the House (Forty-seventh Congress) to date from passage of the passed the Senate, with an amendment, to date from March 4, 1883. It was p by the House for concurrence March 3, but on objection was laid over, and become a law.

committee think it would be unwise to pass the bill as it came he House, allowing pension from March 4, 1883, and therefore nend the passage of the bill with amendments, granting pension per month in lieu of pension of $30, heretofore allowed, and that crease take effect only from the passage of this act.

O

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1021.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1885.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 760.]

*The Committee on Pensions, to whom was referred the bill (H. R. 760) granting a pension to Watson S. Bentley, have examined the same, and report:*

The reasons for the increase asked for are set forth in the report of the House Committee on Invalid Pensions (House Report No. 1624) made during the last session, as follows:

That Watson S. Bentley enlisted in the military service of the United States as a private in Company B, Thirty-seventh Regiment Massachusetts Volunteers, July 15, 1862, and was honorably discharged January 17, 1865.

September 3, 1878, he was placed on the pension roll at the rate of $18 per month, which was subsequently increased to $24, on the ground of loss of entire lower jaw from gunshot wound, received in battle at Spottsylvania, Va., May 12, 1864.

This soldier is now receiving the full amount of pension to which he is entitled under the law, but it is shown from the evidence of the examining surgeon that the soldier's disability entitles him to an increased rate over that now allowed by the general law.

The examining surgeon says:

"He was wounded as stated, a minie ball passing through the lower jaw, from left to right, shattering the jaw; some pieces were removed at the hospital, and during the process of healing the remaining half was discharged. He has now nothing but the corrugated cicatrices, as the result of the healing of the muscles that were left, which leaves him an aperture, where his mouth was, of about three fourths of an inch in diameter; has very little contraction or dilation of that; no mastication, from the loss of all osseous substance of lower jaw; lives upon liquid food; indigestion and diarrhea continuous. His natural tendency has been good, and his determination to exist upon his diet for the past year has held him up. But since last examination I find him failing in digestion, muscularity, and general health, and must continue so; one of the most peculiar cases resulting from gunshot wound. Excellent habits. Disability total."

Your committee are of the opinion that the disability of this soldier is such as entitles him to an increased rate of pension over that provided for in the general law, and recommend that the bill be amended by striking out the word "fifty" in line 8, and inserting "forty-five," and when so amended that the bill pass.

Your committee think that in view of the very severe injuries and great suffering and continued ill-health of the claimant, his pension should be increased, and therefore they recommend the passage of the bill without amendment.

O

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1022.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1885.—Ordered to be printed.

Mr. HARRISON, from the Committee on Territories, submitted the following

# REPORT:

[To accompany bill H. R. 5639.]

*The Committee on Territories, to whom was referred the bill (H. R. 5639) extending the jurisdiction of justices of the peace in Wyoming Territory, having considered the same, respectfully report:*

That the proposed extension of the jurisdiction of justices of the peace in the Territory of Wyoming had its origin in a memorial from the legislative assembly of that Territory, a copy of which appears in the House report accompanying this bill, and is as follows:

*To the Senate and House of Representatives of the United States in Congress assembled:*

Your memorialists, the legislative assembly of the Territory of Wyoming, respectfully represent that, by organic act of the Territory, the jurisdiction of justices of the peace in civil matters is limited to the sum of $100, and that larger sums are matters for adjudication in the district court.

That each district court in the Territory holds but two terms a year, and that Congress has hitherto in other Territories found it expedient to extend the jurisdiction of justices of the peace to $300, even when the district terms have been more frequent.

That the Territory of Wyoming is very large in extent, its population is rapidly increasing, and the business of its district courts is also greatly increasing, so much so that it frequently happens in some counties that all the business before the courts cannot be disposed of within the time limited by law for its session; and your memorialists say that justice frequently fails in consequence of the greater expense of having to litigate all matters involving a greater sum than $100 in the district courts, chiefly on account of the extensive area of the several counties, which makes the expense of obtaining witnesses sometimes greater than the amount involved.

Your memorialists would therefore pray that the jurisdiction of justices of the peace be extended by an act of Congress to $300 in civil matters.

The general law relating to the Territory of Wyoming and other Territories limits the jurisdiction of justices of the peace to $100, but in the cases of Colorado, Arizona, and Utah, Congress has, by special legislation, extended their jurisdiction to $300.

Your committee believe that there is force and good reason in the suggestion made by the legislature of Wyoming, and, therefore, recommend the passage of the bill.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1023.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 19, 1885.—Ordered to be printed.

Mr. HAMPTON, from the Committee on Military Affairs, submitted the following

## REPORT:

[To accompany bill S. 2399.]

*The Committee on Military Affairs, to whom was referred the bill (S. 2399) for the relief of Maj. Michael P. Small, have considered the same, and beg leave to report:*

That an examination of the papers submitted to the committee shows the following facts: In the years 1879 and 1880 a clerk of Major Small embezzled from him $3,780.63, which amount this bill provides to be refunded to Major Small. Major Small is recommended by prominent officers as a gentleman of high character and an excellent officer, and the committee are satisfied that he was robbed by his clerk. They would recommend, therefore, the passage of the bill but for the accompanying letter from the Secretary of War, and the reports of Assistant Inspector-General Jones and of the Commissary-General of Subsistence. From these communications it will be seen that, in the opinion of the officers named, Major Small did not exercise "due diligence and care in the discharge of his duties."

Under these circumstances your committee feel compelled to report the bill back to the Senate adversely, and to recommend its indefinite postponement.

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WAR DEPARTMENT,
*Washington City, December 4, 1884.*

SIR: I have the honor to transmit herewith, for the consideration of your committee, a petition of Maj. M. P. Small, commissary of subsistence, United States Army, setting forth that while on duty as depot and purchasing commissary of subsistence at Chicago, Ill., in 1880, there were stolen or embezzled from him, by his confidential clerk, Government funds to the amount of $3,780.63, and praying for the passage by Congress of an act for his relief.

Accompanying the petition is a copy of the records, findings, and judgment against the aforesaid clerk, who was tried in the United States district court for the southern district of New York, and of letters testifying to the character of the petitioner and to his diligence and care in the discharge of his duties. In transmitting the above papers the Secretary of War considers it to be his duty to transmit also a copy of a special report of Assistant Inspector-General Roger Jones upon the case, dated February 29, 1884, together with a copy of a communication of March 18, 1884, from the Commissary-General of Subsistence, based thereon, upon consideration of which the Secretary of War is compelled to the opinion that the loss caused the petitioner by the embezzlement of his clerk did not, as stated by him in his petition, occur to him while "using due diligence and care in the discharge of his duties, and without default of his."

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
*Secretary of War.*

Hon. JOHN A. LOGAN,
*Chairman Committee on Military Affairs, United States Senate.*

GOVERNOR'S ISLAND, NEW YORK, *February* 29, 1884.

SIR: I have the honor to report that, on receipt of the accompanying papers, viz, a letter, marked confidential, from Maj. M. P. Small, commissary of subsistence, to the Commissary-General of Subsistence, and one from the latter to the honorable Secretary of War covering a memorandum of an examination of some of Major Small's money accounts, returns of provisions, &c., I at once, in compliance with the instructions of the Secretary, dated the 7th instant, initiated measures for the arrest of George Davidson, a clerk in the service of Major Small, and immediately thereafter commenced the investigation devolved upon me by the Secretary, and on the subject-matter thereof respectfully submit the following report:

From the letter and memorandum of the Commissary-General and other data it appears that Major Small failed to take up on his return of subsistence stores for November, 1880, 7,200 5-pound packages of dried apples, the value of which is stated on the voucher forwarded with his money accounts at $3,600; that the omission was brought to his notice by a letter from the Commissary-General's Office, dated December 30, 1880; that its receipt was acknowledged by Major Small the 12th of March following, his return of subsistence stores for that month showing the stores were taken up in a column headed "Packages and pounds," and that they were reported on the return for May, 1881, under a column headed simply "Pounds."

This alteration, in the light of what is now known, it is clear was made to deceive and mislead the examiners in Washington, and appears not to have been noticed until quite recently, apparently not until the 7th instant.

Thus the matter appears to have rested without further action until January 9, 1884, when Major Small was called on to report why he had purchased in November, 1883, a quantity of dried apples, when his returns showed a large balance on hand. To this inquiry Major Small replied, January 15, 1884, as follows, to wit:

"That the amount reported on hand was part of a deficiency which was discovered in my [his] papers after leaving Chicago for San Antonio, and when and how it occurred has not been ascertained," adding he would "endeavor to ascertain when the deficiency occurred, and properly account for the same as soon as possible."

The examination made in the Commissary-General's Office further shows that in August, 1883, Major Small dropped a balance of 7,197 pounds dried apples as transferred to Capt. L. E. Campbell, who had relieved him as depot commissary, and that he took up the same quantity on the return for October as received from the same officer, the latter having in the mean time transferred the duties, funds, property, &c., pertaining to the commissary depot at San Antonio to the officer of the subsistence department who had been designated as Major Small's successor.

Why the change in the heading of the column from "Packages and pounds" was not detected at the time it was made is a question which may be satisfactorily answered in the office of the Commissary-General, but why during this long period of over three years more active measures were not taken to trace up the matter is a point on which Major Small must speak for himself.

Realizing, on the receipt of the Commissary-General's letter of January 9, 1884, that something was wrong, Major Small at once set to work to ferret out the matter, and on the 14th secured a written confession from his clerk, George Davidson, about this and other errors and deficiencies which existed in the accounts while Major Small was stationed in Chicago.

This confession, supplemented by a later one dated February 4, led Major Small to write the confidential letter to the Commissary-General, already referred to, in which it is stated the matter has been traced to the end.

In the the later confession Davidson says, "the item 7,200 5-pound packages dried apples, appearing on voucher of W. H. Schuyler, of November 30, 1880, and as being paid, is a false one, and was made by him to cover deficiencies in turning over the *funds* and stores of General Small to General J. W. Barriger."

Turning to the retained voucher (copy herewith inclosed), it is found that it contains but one item—viz., 532 gallons vinegar at 16½ cents per gallon, $87.78. Other records show the check issued for its payment was for $87.78, and not for $3,687.78, as set forth in the voucher filed with the accounts forwarded to the Commissary-General.

From this it follows that the item on the original voucher of 7,200 5-pound packages dried apples was not purchased nor paid for; and it further appears that a check for its payment was not issued; that Major Small is not entitled to credit for having disbursed the said sum of $3,600, and that his responsibility in the premises is not a property responsibility, but one of money, and that he should therefore cease carrying the dried apples on his returns, and that he should be deemed accountable for their money value, $3,600.

Attention is next invited to voucher No. 2, abstract of purchases for September, 1880, herewith transmitted, which was found by Major Small among his papers, and by him handed to me.

From the indorsements thereon it will be perceived that the original voucher forwarded with the Washington papers also contained a fraudulent charge in its last

on the retained voucher of the dried peaches being stated at 15 cents
le on the original it is 30 cents per pound, making a difference of $90
of the voucher.
mount is $1,384.98 or $90 less than the amount set forth on the Wash-
, and the check issued in its payment is for $1,384.98 instead of $1,474.98,
original.
ars Major Small must be deemed accountable for the additional sum of
gate amount of the fraudulent portion of these two vouchers being

ese frauds appear on vouchers of W. H. Schuyler, it is not unnatural
e must have been collusion between him and Davidson, but as it would
een Schuyler's habit to receipt vouchers on receiving a check for what
ithout waiting to see the receipt filled up, it does not necessarily fol-
collusion between them, or that Schuyler knew anything of Davidson's
s.
idson on his admissions to me about the fraud on the November
entually admitted frauds had from time to time been committed by
g a portion of the moneys received from sales of subsistence stores,
were habitually paid or handed to him.
is clew, I have made an examination with a view of ascertaining the
any, between the cash receipts, on the one hand, and cash payments
the other.
is examination back to January 1, 1879, it is found that from that date
, 1880, a period of twenty-three months, the excess of Major Small's
er his currency deposits and payments therefrom was $4,098.21.
g table shows the cash receipts, deposits, and payments, by months:

*urrency receipts, deposits, and payments therefrom, by Maj. M. P. Small, C. S., U. S. A., from January, 1879, to November, 1880.*

| Month. | Currency receipts. | Currency deposits and payments. | | |
|---|---|---|---|---|
| | | Deposits. | Payments. | Total. |
| 1879. | | | | |
| ..... | $608 85 | $604 74 | $4 11 | $608 85 |
| ..... | 511 68 | 313 23 | 4 05 | 317 28 |
| ..... | 592 55 | 386 19 | 14 78 | 400 97 |
| ..... | 617 30 | ..... | 4 05 | 4 05 |
| ..... | 531 52 | 531 52 | ..... | 531 52 |
| ..... | 686 97 | 674 15 | 14 05 | 688 20 |
| ..... | 508 69 | 471 51 | 35 11 | 506 65 |
| ..... | 557 53 | 536 92 | 17 61 | 554 53 |
| ..... | 417 96 | 923 49 | 10 11 | 933 60 |
| ..... | 393 49 | ..... | 6 36 | 6 36 |
| ..... | 307 85 | 281 18 | 13 80 | 294 98 |
| ..... | 730 37 | ..... | ..... | ..... |
| 1880. | | | | |
| ..... | 589 27 | 587 18 | 17 61 | 604 79 |
| ..... | 648 92 | ..... | 12 69 | 12 69 |
| ..... | 553 95 | 1,308 52 | 9 06 | 1,317 58 |
| ..... | 737 40 | ..... | 10 15 | 10 15 |
| ..... | 640 49 | ..... | 27 81 | 27 81 |
| ..... | 619 89 | 588 83 | 46 25 | 635 08 |
| ..... | 679 14 | 646 28 | 11 16 | 657 44 |
| ..... | 681 44 | 617 98 | 10 71 | 628 69 |
| ..... | 852 52 | 470 73 | 9 90 | 480 63 |
| ..... | 637 48 | 616 42 | 21 76 | 938 16 |
| ..... | 873 38 | ..... | 26 40 | 26 40 |
| ..... | 13,984 64 | 9,558 90 | 327 53 | 9,886 43 |

RECAPITULATION.

| | |
|---|---|
| y Major Small | $13,984 64 |
| and payments by Major Small | 9,886 43 |
| t appropriated by Davidson | 4,098 21 |

ble it will be seen that the total of monthly deposits and payments
receipts in only two instances, viz, in January and May, 1879; that
eld varied every month, ranging from two or three dollars per month

to over eight hundred; that in April, October, and December, 1879; February, April, May, and November, 1880, no portion of the receipts were deposited, and that but a very small portion were applied in payments.

As already shown, to deceive and cover this deficiency in the funds, fraudulent and fictitious entries were made on two vouchers amounting to $3,690, and examinations and comparisons are being conducted with a view of ascertaining if any other fraudulent entries have been committed on other vouchers filed in Washington, the result of which examination is reserved for future report.

Careful and exact as Major Small was in his purchases and payments, it is clear he trusted his clerk in a manner and to a degree that was extremely hazardous, without supervising his acts, or comparing the monthly statements of deposits with the cash receipts, and the result is he has been made the victim of a series of petit larcenies, committed at divers times between January 1, 1879, and November 30, 1880, which, in the aggregate, amount to nearly $4,100.

Conscious of his own rectitude, Major Small from the first manifested an earnest desire that this whole affair should be probed to the bottom, and has extended me every facility for making the investigation thorough and exhaustive, and, while it cannot be necessary that I shall express my conviction of his innocence of any complicity with, or knowledge of these dishonest practices of his employés, yet it cannot be out of place, and the moment and occasion seem opportune, for referring in general terms to his high character, to his well-known zeal, fidelity, and efficiency, characteristics which long since won for him a most enviable reputation.

Concerning the alleged complicity of one Kinney (since died), with Davidson, it is scarcely necessary I should make any remark, for it cannot lessen the crimes the latter admits he has committed, nor alter Major Small's responsibility, but as different views may be entertained on these points I submit copies of three letters to Davidson from former employés of Major Small at Chicago, and also copies of two letters from Davidson to Major Small, dated January 14, and February 4, 1884, which are confessions of his guilt.

Attention is respectfully invited to Major Small's written explanation herewith submitted, and in returning the papers, upon which were indorsed the instructions for this investigation, which papers are inclosed herewith, it is proper to add that the assistant treasurer of the United States in Chicago had to be communicated with twice, and papers filed in Washington examined and comparisons with them made, in order to obtain the data for this report.

I am, sir, very respectfully, your obedient servant,

R. JONES,
*Lieutenant-Colonel, Assistant Inspector-General.*

The ADJUTANT-GENERAL UNITED STATES ARMY,
*Washington, D. C.*

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[Personal.]

PURCHASING AND DEPOT COMMISSARY'S OFFICE,
*Houston Street, corner of Greene, New York City, January* 14, 1884.

GENERAL: After nearly 14 years' service with you, covering many changes, and after long and faithful service, during which I have tried hard to protect your interests, I am compelled at this late day to place my life and happiness in your hands.

This confession has been rendered positively necessary in consequence of a recent letter from C. G. S., and when I look back over the last 3 years and know what terrible anguish I have undergone I can hardly see why I should not have done so earlier.

I come to this with fear and trembling, and as I think of my poor wife and child I beg and entreat your indulgence.

The trouble is this: When we left Chicago and went to San Antonio there were some errors reported in your last returns, some 100 cans of corned beef for which Mr. Kenny got General Barriger's receipt, 1 pound Java coffee which righted itself, 200 pounds hams which I invoiced to the post A. C. S. at San Antonio and paid for in cash for as much of it as he, Sergeant Hamilton, could not issue, and also there was 7,200 pounds dried apples which had not been accounted for. This neither Kenny nor I could straighten out, and we agreed to pay for it between us, and up to last summer I was able to get out of Kenny not quite $200. The notification of these errors came to you in January, and in March I was compelled to do something, as we could not handle it or wait any longer, and so I took up the amount on that return; there was some 3 pounds of apples over at the depot, and that made the amount 7,197, which I have carried on ever since.

I had no possible chance to reduce the amount or make any change in the affair till I *got* here, when I *honestly* and *faithfully* intended to buy all the dried apples needed

hipment and in the course of a year or so wipe it out. I was so busy in Novem-
when that last lot were bought that I did not catch hold of the vouchers until
were all made out and could not well be altered. Now, general, I can do more
make good the deficiency. What kills me now is to lose your confidence. I
been zealous in your interests, and have tried hard to do what was right, and
fatal error I made was shouldering a share in a mistake that I don't know how
pened. I have tried these three years to shield this from you, and for all that
I have never laid down to sleep at night that it has not haunted me. I know
are a Christian gentleman, and I beg for mercy for my family's sake, for as sure as
hing happens to me it will kill both.
will do anything, any kind of work, only let me hold on till I can make this even.
calls for apples are not many, and I can readily reduce the amount by buying all
are needed for shipment, thus making it not a positive hardship to my family.
will endeavor to raise the money at once, or will give a bond to make it good.
have tried to make this intelligible, though the severe mental strain I am suffer-
from nearly drives me mad. General, can and will you not help me? The best
s of my life are gone, and you know how hard it is to start again if I have to
mence it in disgrace. My poor wife's family are now all widows, and all in poor
umstances, and without your clemency now mine are homeless and penniless.
eneral, I believe this matter can be arranged, and I plead pleasant recollections of
ng tour of duty with you to spare me now.
know the enormity of my offense in deceiving you, and hope and trust you will
with me as gently as you can. Everything I have on earth is now in your hands.

DAVIDSON.

did not dare to tell you this on Friday, the letter from the C. G. S. so dumfounded
and again you were to have an inspection on Saturday and I did not want you to
anything of this until that was over.

true copy.

HENRY G. SHARPE,
*Capt. and C., S. U. S. A.*

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PURCHASING AND DEPOT COMMISSARY'S OFFICE,
*Houston Street, corner of Greene, New York City, February* 4, 1884.

NERAL: Referring to the matter of 7,200 packages of apples, 5 lbs. each, paid for
bstract of purchases for the month of Nov., '80, and not taken up and accounted
n return of sub'ce stores for that month, I hereby confess that the item, as ap-
ing on voucher of W. H. Schuyler, of Nov. 30, '80, as being paid for 7,200 pack-
of apples is a false one and was made by me to cover deficiencies in turning over
funds and stores of Genl. Small to Gen'l J. W. Barringer, and was made share and
e alike with Mr. Volney T. Kenney of the office.

Respectfully,

GEORGE DAVIDSON.

neral M. P. SMALL,
*C. S., U. S. Army, New York.*

true copy.

HENRY G. SHARPE,
*Capt. and C. S., U. S. A.*

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OFFICE PURCHASING AND DEPOT COMMISSARY,
3 *and* 4 *East Washington street, Chicago, Ill., January* 17, 1881.

DEAR DAVIDSON: I send you herewith the Rock Island oil business. In the
place Lieut. Ira MacNutt receipted for all stores up to date; the oil not arriving,
it it off receipts. It is presumed that it had not arrived at the time he turned
to Lieutenant Baker, and that he scratched it off General Small's invoices. We
the quartermaster's receipts for the oil and of course used them. After Baker
ned charge the oil arrived and he receipted for it, referring to previous invoices.
Pratt cannot find the first letter written by McNutt, nor can he find the letter in-
ng General Small's invoices to Lieutenant Baker, but I remember of sending
tenant Baker the invoices. Baker should have referred to General Small's
ices to McNutt in taking up the oil. The receipts herewith will correct
ers. It seems d——d strange that after comparing those quantities brought for-
l as often as I did that 3 should be substituted for a 5 every time, but I suppose
one of those things that a fellow will do. I will get the hams from some one and
them to you. Are our papers closed up to the time General Small turned over to

General Barriger, or are they floundering around between months, jumping from August to November? I used hams last month to make up shorts 'til you could not rest. Our stock is in A No. 1 shape, but I would like to know when they will quit in Washington, or how far along they have got. I will see Stoll to-day and try and learn what the matter is.

Am sorry that Mrs. D. finds it so disagreeable there. Won't it brighten up a little after awhile? Nothing new from yesterday's letter. Beautiful sleighing. My girl has two spanking, beautiful horses and a first-class sleigh. She called for me to day to take me up to lunch. I go to see Bearnhardt to-night in Camille; expect to enjoy it. All well and happy. Remember me to Mrs. D. and baby.

Yours, in haste,

VOL. T. KENNY.

A true copy.

HENRY G. SHARPE,
*Captain and C. S., U. S. A.*

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OFFICE OF PURCHASING AND DEPOT COMMISSARY OF SUBSISTENCE,
*No. 3 East Washington Street, Chicago, Ill., October 30,* 1883.

DEAR MR. DAVIDSON: I send you for the first time since you left Chicago a few lines, hoping yourself and family are well, same as it leaves me and my family. You promised when you left Chicago you would write me a letter, which is a long time on the road coming and I suppose never will reach destination; many a time I have thought of writing to you, but could not do so on account of some little shortage which you know yourself we had when we turned over to General Barriger; it only coast me the small sum of sixty-one dollars and sixty-six cents. It run to June, 1881, when I got tired of Kenny always growling about shortage; I went and bought 500 pounds of gran. sugar from Farwell, Miller & Co., and paid them $10 a month until it was paid, and also bought 72¼ boxes sardines from Sprague, Warner & Co., and paid for them. I think if I had to tell it to General Barriger he would not let me have done so, but thank God I got over the loss and some one else has to suffer for it sooner or later. If you do remember, and I never shall forget, before we thought of turning over, you said to me one day that you where wondering how our stock could come out straight; that Kenny had not paid any commissary bills for 8 months; I answered you that if anything should happen you should bear that in mind, and when you left here you said that he had paid up all, which I at the time doubted, and do so yet. I had to stand it all myself, and some one else reaping the benefit of it; since Kenney got sick I learned some from him which convinced me about some wrong doing; he told me things that he told no one else, not concerning you any, but himself. I only blame you for not taking out his salary—his commissary bill every month—same as you done to me and the rest. We allways come out straight in our stock which we never where before. You must not think it hard of me for writing you this; it has been on my mind ever since and so I thought I tell you about it.

Please answer these few lines and I will tell you more in my next letter.

Respectfully, yours,

F. STEVENS.

A true copy.

HENRY G. SHARPE,
*Capt. & C. S., U. S. A.*

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CHICAGO, *December* 13. 1883.

DEAR MR. DAVIDSON: I received your letter, and was very glad to hear from you once in 3 years. It gave me some idea that our Mr. Kenny never told you anything about what had been going on here. He was crooked, and always has being so since ever he came with us. You remember that when you left Chicago you left a memorandum with him to send some things to Mrs. Young, which I did as I allways had done. Do you know how long I had to carry that as stores on hand? For nearly two years. I doubted very much that you would leave it go that long, and allways thought you had send they money to Kenny, and that he had used they money and tried to dodge to pay it, and convert all our allowance what we should drop into these articles so he would not have to pay it at all. I tried him several times, and told him that I thought it would be about time for Mr. Davidson to pay the account. He would say that he would write to you, but that you were short in money. At last I told him I would write to you myself and see about it; then it was paid, somehow or other; so I do think a man like him put on big airs on others' expense. He ort to go crazy. No one in the office thought or know anything about it that he was of only myself. From they day Genl. Small came to our office from San Antonio he got off his base.

n Genl. Small left they office that day he (Kenny) came down to me and told me Genl. Barriger was going to have him put in jail, as he heard him say so to Genl. ll, and that he heard his name mentioned between them. I told him that it was not ut could not get it out of his head from that time until he left. I had a great deal rouble with him; I did not say anything about it to any one in our office; he ld come to my house in they evening and have always they samen old talk. I said to him, "You are crazy," when he said, "I am," and Genl. MacFeely came here Washington and Kenny went to they hotel and told him a lot of stuff samen as e told me, and Genl. MacFeely promised he would come and see Genl. Barriger, failed to do so. That sett him wild altogether, so on they day Genl. MacFeely going to Washington Kenny came to me and said, "They are going to do some- g to me to-night; will you go and see Genl. MacFeely and ask him for God's sake tay here over night and help me out of this scrape?" and of he went and has not n back in they office since. I went to they depot and saw Genl. MacFeely, as I had seen him before, and asked me what was they matter with Kenny. I told him he crazy. He said that was just what he thought of it, and told me to tell Genl. riger about it they next morning. That was they first Genl. Barriger knew about and he was very sorry that he had not seen Genl. McFeely before he went away, said that he was very glad that I had seen him. He may think that we must be fearful condition here. I will say no more about it this time; I could write for hours longer and tell you more about it. I suppose you know that he has going hey Washington Insane Asylum, wich I think he will not leave very quick. I feel y for him because he is a young man, but if he had being a different man I think would have kept his senses.

will tell you more in my next letter, hoping you will answer this. If I live untill t summer I may come to New York to see my brother, and shall then come and you; will tell you more then. I wish I could come to New York now, but as I e had my vacation I cannot.

est regards to Mrs. Davidson, Miss Davidson, and yourself.

From yours, truly friend,

FRED. STEVENS.

o one in they office know that I wrote to you or that I received any letter from .

wish you all a merry Christmas.

true copy.

HENRY G. SHARPE,
*Capt. & C. S., U. S. A.*

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WAR DEPARTMENT,
OFFICE COMMISSARY-GENERAL OF SUBSISTENCE,
*Washington, D. C., March* 18, 1884.

IR: I return herewith the report of Lieut. Col. Roger J nes, assistant inspector- eral, of February 29, 1884, in relation to irregularities in the accounts and returns Maj. M. P. Small, C. S., with accompanying papers, including the letter of Major all to the Adjutant-General of the Army of February 12, 1884, appealing to the retary of War for redress on account of the action of the Commissary-General of sistence in requesting the cancellation of a request for the remittance of $75,000 him on February 4, 1884, all of which papers were referred by you to me for con- ration and remark, under indorsement of March 7, 1884, and in relation to which g leave to submit the following:

The case had its origin in transactions occurring in 1879 and 1880. Notice of gularity sufficient to put Major Small upon searching inquiry was given that er by the Commissary-General under date of December 30, 1880.

I. The recent investigation of Lieut. Col. Roger Jones and examinations of Major all's accounts and returns have exposed a system of peculations that had been ticed by one, at least, of the employés of Major Small, at the Chicago depot of Subsistence Department, from January, 1879, to November 30, 1880, at about which er date Major Small ceased to do duty at that depot.

I The full amount of the defalcations occurring under Major Small, as shown by investigation of Lieutenant-Colonel Jones, was $4,098.21. Fraudulent and fictitious ies in the vouchers rendered by Major Small to the accounting officers of the Treas- have been discovered to the extent thus far of $3,776.40. To cover the full amount 4,098 21, other fraudulent entries must of necessity exist in Major Small's accounts vouchers to the extent of $321.81.

7. The pecuniary responsibility of Major Small extends to the full amount of the lcations ($4,098.21), for the following reasons:

.) He is responsible to the United States for all the public money and public perty which were intrusted to his charge and control.

(2.) The United States does not insure him against the dishonesty of those whom he may have seen fit to employ and intrust with the monetary and property affairs which were committed to him and for which he was personally responsible. Equitable considerations for relief from losses can only arise where it is shown on his part that, notwithstanding his compliance with all regulations and the exercise of ordinary diligence (such as persons of common prudence are accustomed to use about their own business or affairs), such losses have, nevertheless, inevitably occurred.

(3.) The peculations of Davidson, one of his employés, were facilitated by the course adopted by Major Small himself, as by the latter's own admission he trusted him (Davidson) in "receiving pay for subsistence stores sold to officers and employés from time to time," and by Major Small's making it "his (Davidson's) duty to go to the assistant treasurer's and deposit the same to my (Major Small's) credit, and, to my (Major Small's) present recollection, report the same to me (Major Small) when done, and show me (Major Small) the certificate of deposit, but the details of which I (Major Small) did not examine." "The investigation and the confession of Davidson," says Major Small, "shows that he retained moneys from the monthly sales for a period of a year, more or less, prior to the time of my transferring the depot at Chicago, November 30, 1880, to my successor, Major Barriger, C. S., U. S. A."

(4.) The fraudulent entries thus far discovered have been found in vouchers signed by W. H. Schuyler. If, as Major Small represents, "all vouchers, except for those nearest who called at the office for payment, were taken by myself (himself) direct to the merchants with checks for the amount and signature made in my (his) presence," then the vouchers of W. H Schuyler, on which the fraudulent entries of articles and money-amounts appeared after leaving Major Small, must have been executed in a careless and indifferent manner, by which fraud on the part of his employés was facilitated.

(5.) Major Small makes no explanation of how, with his system of making payments, the vouchers of Schuyler came to be "raised" in amount, but claims that "where I (he) erred was in placing too much confidence in my (his) chief clerk," in trusting him to make sales and deposit proceeds, the details of which he did not examine.

V. Whatever may have been the shortcomings at the Chicago depot in 1879 and 1880, Major Small is now entitled to the bar of the 103d Article of War against any accusation that might be brought against him under the military penal code on account of such shortcomings.

VI. But the neglect, from the date of the Commissary-General's letter of December 30, 1880, to January 9, 1884, to take any prudential measures for straightening the irregularity pointed out to him in his returns, his retained accounts, returns, and vouchers being wholly under his control, and the same clerk whom he had trusted being still employed by him—his attention being throughout this period called to the matter in a variety of ways—remains unsatisfactorily explained.

The notification to him of December 30, 1880, which he received after his transfer from the depot at Chicago, was in the following words, referring to his return for the month of November, 1880:

"Return of provisions. Dried apples (5-pound packages), purchased per abstract, 9,960; entered on return as 2,760."

"This," he explains in his letter of February 23, 1884, to Lieutenant-Colonel Jones. "I supposed was an error in transferring the stores, never for a moment thinking it otherwise."

Why should he have *supposed* this to be an error of "*transferring*" the stores? The notice was, that he had purchased 9,960 five-pound packages, and had only entered and accounted for 2,760 on his return; not that he had made an error in "transferring" stores to his successor at Chicago, but that *he had failed to charge himself properly on his return with the full amount purchased.*

Is it possible that an officer of Major Small's experience, upon receiving a letter of that kind, should "never for a moment" think it otherwise than a notice of "an error in transferring"? Is it possible that upon its receipt he should simply instruct his clerk "to take necessary measures to have it corrected"—such correction, according to his suggested theory, involving the writing of letters to his successor at Chicago requesting the correction of receipts or the sending of new ones to "cover the supposed omission"? Did he afterwards sign any such letters prepared by his clerk? Were not the unusual magnitude of the item itself (being 36,000 pounds of dried apples), the money value involved (being $3,600), and the critical time of occurrence of the irregularity (being upon the closing up of the affairs of his old station), sufficient to keep the matter in mind until it was fully cleared up? Major Small answers in these words: "He "(the clerk)" entered it, as he confessed to me, on the return of provisions which accompanied my papers to Washington and omitted it on my retained ones, so I had no more thought about it, thinking the receipts of my successor, Major Barriger, had been corrected, or new ones received to cover the supposed omission." What reason had he to think that the receipts of

jor Barriger had been corrected or new ones received by him? Had he written them? Had he examined his retained return to see if they were needed? Would jor Barriger have furnished him with receipts for stores which he (Major Small) l *never taken up on his returns*, and had never been transferred to Major Barriger? but this answer is unsatisfactory in several remarkable particulars. "He entered as he confessed to me"—(did not Major Small himself know, by investigation, ether he had or not?) "on the return of provisions which accompanied my papers to shington and omitted it on my retained ones." (Does he mean to suggest or imply t it was omitted from *all his retained ones* subsequent to March, 1881? Davidson s nothing about omitting it from his retained ones after March, 1881.) "So" (on t account?) "I had no more thought about it." It does not appear that the reed returns were submitted to Lieut. Col. Roger Jones in the investigation made him, and no explanation whatever is attempted by Major Small by which to clear his responsibility in invoicing 7,197 pounds dried apples to the officer who relieved at San Antonio in August, 1883, and obtaining at the time receipts for the same, and receipting back to him again from his new station in New York for the same item October, 1883, the dried apples themselves not being on hand. At every turn of se transactions the official signatures of Major Small were necessary. Will it do ay that, upon receipt of the letter of the Commissary-General of January 9, 1884, was then I at once took effective measures to hunt out what I supposed to be an or in shipments and must have been taken up by some receiving commissary?"

Major Small had already, on March 12, 1881, answered the Commissary-General's er of December 30, 1880, and stated, "*I have taken up and accounted for on my rn of provisions for March*, 1881. * * * 7,200 *packages apples dried, to correct errors on my November return.*" The conclusion is irresistible that he was aware he date of this letter, March 12, 1881, that this item represented nothing actually hand, and that had he, at any time during the past three years, exercised the gence which he owed to the United States, or even such only as a person of com- prudence is accustomed to use about his own business or affairs, the defalcations t have now been shown would have been forced into notice, and the bar against criminal prosecution of his employé been saved.

II. No evidence whatever appears of any intelligently directed efforts being made n December 30, 1880, to January 9, 1884 (by which latter date *criminal* prosecu- of *all* persons concerned had become barred), for the detection or disclosure of fraud. Yet Major Small, on February 12, 1884 (pending the investigation), in letter to be laid before the Secretary of War, stated:

It may be well to state that it was by my persistent efforts that the fraud was ected, for the false account had been passed upon for 7,200 pounds, instead of 7,200 und packages, as fraudulently entered on the Washington voucher, and not en- d on my retained voucher nor on my retained return of provisions."

his statement—intended, doubtless, as a whole, to impress the Secretary of War h an idea of zeal and diligence on the part of Major Small—does not appear to be rely correct. "This confession," says his employé, Davidson, on January 14, 1884, s been rendered positively imperative," not on account of any persistent efforts Major Small, but "in consequence of a recent letter (January 9, 1884) of the Com- ary-General of Subsistence." Answering this letter of the Commissary-General of uary 9, on January 15 (the day after Davidson's confession of January 14), Major ll says of the fatal item on his return, that "it is a part of a deficiency which discovered in my papers after leaving Chicago for San Antonio, and when and it occurred has not been ascertained. I will endeavor to ascertain where the iency occurred," &c. With this written disclosure of January 14, 1884, of culpa- y and fraud on the part of Davidson in his possession, he continued to keep the rit in the employ of the United States, and paid him his pay on January 31, 1884; even after the receipt by him of another letter from the Commissary-General—viz, of January 31, 1884—notifying him that the dried apples carried on his returns pounds" should be "5-pound packages," and the confession of Davidson of uary 4, which followed, he asked the Commissary-General, confidentially, to himself ordered to Washington to exhibit the papers and ask "advice how to er proceed in the matter without bringing the Subsistence Department into dis- te in the public papers," stating that he had "relieved" the culprit from his s and placed him "under arrest with his parole of honor not to leave the city," that he, the culprit, "wants to compromise, but I (Major Small) am at fault action to take." In view of these facts, it is not perceived how Major Small l claim in his letter of February 12, 1884, that "it was by my (his) persistent ts that the fraud was detected"; and as no statement of what these persistent s were was furnished Lieutenant-Colonel Jones in the explanation submitted 23d uary, that officer significantly remarks: "Why, during this long period of three s, more active measures were not taken to trace up the matter is a point on which r Small must speak for himself."

I respectfully suggest to the Secretary of War as follows:

I. That it seems necessary that the investigation be continued, so that by a careful and full examination made of Major Small's accounts and returns, his check-book, deposit receipts, and monthly statements of his account with the assistant treasurer, the details of the difference ($321.81) between the actual amount of defalcations reported by Lieutenant-Colonel Jones ($4,098.21) and the amount of the fraudulent entries ($3,776.40) thus far discovered may be developed if possible.

II. That the settlement of the accounts and returns of Maj. M. P. Small, C. S., for the period from January 1, 1879, to December 31, 1880, while at Chicago, Ill., should be recommended to the accounting officers of the Treasury to be reopened on the ground of fraud, and that a new settlement, in the light of the results of the pending investigation, be made.

III. That in the consideration of the importance of the purchasing depot at New York, and the large money transactions there, it be considered by the Secretary of War whether it be proper or advisable to continue Major Small in further charge of that depot, pending such further action as may be ordered in this case.

Respectfully, your obedient servant,

R. MACFEELY,
*Commissary-General of Subsistence.*

The Hon. the SECRETARY OF WAR.

[First indorsement.]

The suggestions of the Commissary-General as contained in the first and second paragraphs at the close of his report of the 18th March last are approved, and will be carried out.

By order of the Secretary of War.

JOHN TWEEDALE,
*Chief Clerk.*

WAR DEPARTMENT, *July* 8, 1884.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1024.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 19, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Post-Offices and Post-Roads, submitted the following

# REPORT:

[To accompany bill S. 1684.]

*The Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. 1684) for the relief of Clement A. Lounsberry, have examined the same, and report:*

That a concise statement of this case is embraced in the letter of the First Assistant Postmaster-General, of date April 5, 1884, addressed to the chairman of the subcommittee having the subject in charge, and which is here quoted at length, viz:

POST-OFFICE DEPARTMENT,
OFFICE OF THE FIRST ASSISTANT POSTMASTER-GENERAL,
SALARY AND ALLOWANCE DIVISION,
*Washington, D. C., April* 5, 1884.

SIR: Your letter of the 24th ultimo to the Postmaster-General, inclosing Senate bill 1684 for the relief of Clement A. Lounsberry, postmaster at Bismarck, Dak., has been referred to this office.

In reply you are informed that the claim of Mr. Lounsberry appears to be for the sum of $750 alleged to have been expended by him for clerk hire, from April 1, 1881, to June 30, 1882, in excess of the authorized allowances made by this office; and from a letter addressed to this office by Mr. Lounsberry, the amount claimed is itemized as follows:

| | |
|---|---|
| Paid to Frank D. Bolles: | |
| Second quarter, 1881 | $150 |
| Third quarter, 1881 | 150 |
| Fourth quarter, 1881 | 150 |
| First quarter, 1882 | 150 |
| Paid to C. M. Lounsberry: | |
| Second quarter, 1882 | 150 |
| Total | 750 |

It also appears from his statement that during the year 1881 his total expenditure for clerk hire was $1,150, or $450 in excess of the amount allowed by the Department; and in 1882 he paid $1,300 for clerk hire, or $475 more than his allowance for clerks. During the year 1883 $2,009.83 was expended for clerk hire, or an excess of $609.83 more than the regular allowance for clerks; but out of the surplus fund for clerks in post-offices at the close of the fiscal year ending June 30, 1883, the sum of $404.13 was approved and allowed by this office.

The gross receipts which accrued at the Bismarck post-office during the years in question were as follows:

| | |
|---|---|
| 1881 | $6,573 61 |
| 1882 | 7,316 97 |
| 1883 | 10,472 20 |

On account of the large registry business, and the large amount of free business originating in the several Government offices located at Bismarck, there is no doubt that the clerical force employed by the postmaster was needed to conduct the business of the office.

Very respectfully,

FRANK HATTON,
*First Assistant Postmaster-General.*

Hon. JAMES F. WILSON,
*Chairman Subcommittee on Post-Offices and Post-Roads,*
*United States Senate, Washington, D. C.*

Mr. Lounsberry presented vouchers to the committee in proof of the payment of the several sums paid out by him as itemized in the foregoing letter, and as said payments were occasioned by the necessities of the office induced by the large amount of registered and free business which passed through it, but which added largely to the work without increasing the revenue of the office or the compensation of the postmaster, it seems but just that the amounts so paid out for the benefit of the publice service should be repaid.

The committee therefore report the bill to the Senate and recommend its passage.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1025.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1885.—Ordered to be printed.

Mr. HARRISON, from the Committee on Military Affairs, submitted the following

# REPORT:

[To accompany bill S. 692.]

*The Committee on Military Affairs, to whom was referred the bill (S. 692) for the relief of Michael Reynolds, respectfully report:*

That in response to an inquiry for the military record of this soldier, the following communications were received from the Secretary of War and the Adjutant-General of the Army:

WAR DEPARTMENT,
*Washington City, April* 9, 1884.

SIR: I have the honor to acknowledge the receipt of your letter of the 24th ultimo, inclosing S. 692, Forty-eighth Congress, first session, a bill directing the Adjutant-General of the Army to remove the charge of desertion from the record of Michael Reynolds, of Webster, Mass., formerly a soldier in Company H, Fifth Connecticut Volunteers.

In reply to your several inquiries touching this matter, I beg to invite your attention to the inclosed report, of the 8th instant, from the Adjutant-General, which will, it is believed, afford the information requested.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
*Secretary of War.*

Hon. BENJAMIN HARRISON,
*Of Committee on Military Affairs, United States Senate.*

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WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
*Washington, April* 8, 1884.

SIR: I have the honor to return herewith letter of Hon. Benjamin Harrison, United States Senate, dated March 24, 1884, inclosing S. 692, a bill for the relief of Michael Reynolds, who is charged with desertion on the records of Company H, Fifth Connecticut Volunteers, and to state in reply to the several inquiries presented by Hon. Mr. Harrison that it appears from the records of this office that this man, who was enrolled July 23, 1861, at Hartford, Conn., for three years, received a furlough some time in September, 1861, and failing to return upon its expiration, October 13, 1861, he was reported a deserter and dropped from all subsequent rolls of his company. It appears further, from reports rendered to this office, that on August 13, 1863, this man reported himself as a deserter to the provost marshal of Norwich, Conn., and was sent by him to the commanding officer of the volunteer recruiting depot at Fort Trumbull, Conn., who declined to receive him, and allowed him to return to Norwich and remain there until he could procure the necessary papers to secure his discharge.

He again reported to the provost marshal at Norwich, Conn., November 30, 1864, and was forwarded as a deserter to New Haven, Conn. From a report of the commanding officer of the camp at New Haven it appears that Reynolds made the follow-

ing statement: "Before the expiration of his furlough he was taken sick and unable to travel for six weeks; at the expiration of this period he started to rejoin his regiment. While at Hartford, on his way back, he received a wound by the accidental discharge of a pistol, which necessitated the amputation of his left leg. He remained in the hospital at Hartford about sixteen weeks, when he went home by permission of Governor Buckingham, who gave him the money to pay his passage. He reported to provost marshal at Norwich, August 13, 1863," &c. This report is indorsed by Governor Buckingham, of Connecticut, who states: "I have no distinct recollection of the circumstances related by Michael Reynolds, but think it probable that they are substantially true."

Reynolds was restored to duty without trial, with loss of all pay and allowances by special order No. 315, Department of the East, dated December 28, 1864, and he was finally discharged at New Haven, Conn., January 16, 1865, by reason of "loss of left leg, amputated after gunshot wound *not* received in the service."

In May, 1882, this man applied through his attorney, to this office for amendment of record to show loss of leg to have resulted from wound *received in line of duty*, also for removal of charge of desertion. It cannot be stated what evidence was then presented, the papers having been returned with the application, which was denied on May 17, 1882, both in the matter of amendment of record and of removal of charge of desertion.

Inasmuch as the inclosed bill contemplates removal of charge of desertion only, attention is respectfully invited to the fact that in view of this man's voluntary return the relief requested is provided for in the bill which passed the House of Representatives February 18, 1884 (H. R. 4383), and this latter measure, if it becomes a law, would obviate the necessity for special legislation in this case.

I am, sir, very respectfully, your obedient servant,

R. C. DRUM,
*Adjutant-General.*

The Hon. SECRETARY OF WAR.

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The following is the statement of Mr. Reynolds himself as to the facts in his case:

WEBSTER, MASS., *December* 5, 1883.

SIR: According to agreement made with you at an interview held in your office at Worcester, on Saturday, November 24, in regard to my pension claim (No. 231425), I now desire to submit the following statement for your consideration: I enlisted in July, 1861, for three years or during the war, as a private in company H, Fifth Connecticut Volunteers, and was detailed as regimental blacksmith. Was with my regiment in Maryland in October of 1861, when I was taken sick and received a furlough and came home to Killingly, Conn. At the expiration of furlough I was unable to return to my regiment, being confined to my bed with fever. My condition was reported by my family physician (Dr. Samuel B. Hutchins, of Killingly, Conn., whose sworn statement is now on file with the Pension Department at Washington) to my regimental surgeon, and the reply received was to return to my regiment as soon as able, and bring statement from Dr. Hutchins showing cause for delay. Received such statement from Dr. Hutchins about December 1, 1861, and reported myself at the State-house in Hartford, Conn., to learn whereabouts of my regiment, and, if possible, obtain transportation to the same.

I was personally acquainted with Colonel Kingsbury, of the Eleventh Connecticut Volunteers, then in camp at Hartford (he being a former officer of my own regiment), now deceased, and was by him recommended to Governor Buckingham as a suitable person to take care of and accompany four horses that were then in Hartford awaiting transportation to the Fourth Connecticut Volunteers, then in camp on Arlington Heights, Virginia. I was then and there assigned to that duty by Governor Buckingham, and ordered to report to Capt. William I. Hyde, of the Eleventh Connecticut Volunteers, who was then present. (Captain Hyde's statement, covering the whole transaction, is now on file with the Pension Department, at Washington.) I remained in the camp of the Eleventh Connecticut Volunteers about three weeks, and was to go with that regiment as far as Annapolis, Md., and from there go with the horses to the camp of the Fourth Connecticut Volunteers, and then report to my regiment. While taking care of those horses, my instructions were to exercise them under the saddle, and get them accustomed to the firing of a pistol by the person riding them. It was while doing that duty and by the accidental discharge of a pistol in my own hand that I received a severe wound in my leg below the knee.

I was taken to the city hospital in Hartford, and before leaving there the next spring, my leg was amputated three times, the last time within nine inches of my body. While I lay there in the hospital my furlough and letters from Dr. Hutchins

and Dr. Lewis, my regimental surgeon, were mislaid and lost, and I have never been able to recover them. When able to get around in the spring of 1862, I was given $5 by Governor Buckingham and told to go home to Killingly, and there remain until I received my discharge from the United States service. He told me at the same time that my condition and whereabouts would be reported to my regiment at once, and the whole affair made satisfactory to my regimental officers. *It never was*, and the consequence is, I stand to this day, on my regimental records at Washington, *as a deserter*, and that is what debars me from receiving a pension from the Government. I remained at home, as directed, until the summer of 1864, when I learned, to my surprise, that I was reported as a deserter at provost-marshal's office in Norwich, Conn. I went at once to Governor Buckingham and told him of the fact. He was much surprised to learn that I was not discharged, and sent me to the State receiving camp at New Haven, Conn., where I was returned to duty as ward-master in convalescent hospital *without trial or question of any kind*, and received a square and honorable discharge from the United States service in January, 1865, with loss of all pay and allowances from time of leaving my regiment until returned to duty at New Haven.

My discharge and all affidavits and sworn statements made in application for pension are now on file with the Department at Washington. I made application for pension about eight years ago, and was told a few months since by Commissioner Dudley that his office was powerless to do anything for me, and that is the reason I appeal to you. I have a sick wife and four small children to take care of and nothing to do it with but what little I can earn at the anvil from day to day, and if our great and good Government will but grant me a little out of its abundance it will be a great help to me and mine. Any more explanation of the case that you may desire I shall be pleased to furnish if in my power to do so. Hoping you will give the matter your attention when you have opportunity.

I remain, yours, most respectfully.

MICHAEL REYNOLDS.

Hon. GEORGE H. HOAR.

STATE OF MASSACHUSETTS,
*County of Worcester, ss:*

Subscribed and sworn to before me this eighth day of December, 1883.

[SEAL.] JOHN F. HINDS,
*Notary Public.*

See certificate on file at Pension Office.

After the application for the removal of the charge of desertion was denied by the War Department, May 17, 1882, a general act was passed by Congress to relieve certain soldiers of the late war from the charge of desertion August 7, 1882. Section 2 of this act provides that the charge of desertion shall be removed in all cases where it shall be made to appear to the satisfaction of the Secretary of War, from the rolls and records, or other satisfactory testimony, that the soldier charged with desertion did not intend to desert, and after such charge of desertion voluntarily returned to his command and served in the line of his duty until he was mustered out of the service. We think the statement of Michael Reynolds, as embodied in his letter to the Adjutant-General of the Army, brings his case within the provisions of this law. It seems that he did not intend to desert, but overstaid his furlough, first, by reason of sickness, and afterwards by reason of an accident resulting in the loss of his leg. The requirement that he should return to his command, the committee think, is substantially met in this case by the soldier reporting himself, first, to hospital, and afterwards to the provost-marshal.

Believing that the War Department can give relief in this case, which seems to the committee to be a meritorious one, under existing law, the committee recommend that the bill do not pass, and that the same be indefinitely postponed.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1026.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1885.—Ordered to be printed.

Mr. DOLPH, from the Committee on Public Lands, submitted the following

# REPORT:

[To accompany bill S. 2509.]

*The Committee on Public Lands, to whom was referred the bill (S. 2509) to confirm titles to lands in certain cases, having considered the same, respectfully report:*

The object of the bill is to confirm titles to lands which have been purchased at private entry for cash, warrants, or scrip, and for which certificates or patents have been issued through the inadvertence or mistake of the officers of the general or local land offices when such lands were not subject to private entry, in cases where there are no conflicting claims thereto.

Your committee herewith submits, as a part of their report, certain letters from the Secretary of the Interior and the Commissioner of the General Land Office, from which the necessity of the proposed legislation will appear.

Your committee recommend that the bill be amended by inserting after the word "purchased," in line 10, the words "in good faith," and by striking out in lines 15 and 16 the words "at the date of the approval of this act," and inserting "on the 25th of January, 1885," and that the bill, when so amended, do pass.

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DEPARTMENT OF THE INTERIOR,
*Washington, July* 14, 1885.

SIR: Senate bill 2509, "To confirm titles to lands in certain cases," was received by your reference of the 9th instant, and referred to the Commissioner of the General Land Office. I have the honor to inclose herewith copy of his report on the subject of this date, and to state that I concur in the views therein set forth.

Very respectfully,

M. L. JOSLYN,
*Acting Secretary.*

HON. P. B. PLUMB,
*Chairman Committee on Public Lands, United States Senate.*

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DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
*Washington, D. C., Januaay*, 14, 1885.

SIR: I am in receipt, by your reference, of a letter from Hon. P. B. Plumb, chairman Committee on Public Lands, United States Senate, transmitting a copy of Senate bill No. 2509 "To confirm titles to lands in certain cases," and requesting the views of your Department thereon.

The bill, though general in its nature, applies particularly to certain lands in the Upper Peninsula of Michigan, which were once offered at public sale and afterwards withdrawn from private entry by reason of railroad grants, and then relieved from the withdrawal, or were reduced in price by act of Congress, but were not again offered at public sale at the reduced price nor restored to private entry by public notice, but which were nevertheless entered as lands subject to private entry, contrary to decisions of the courts and the decisions and instructions of this Department. I am not informed that this state of facts exists elsewhere than in the locality referred to. Many of such entries in that locality have been patented, and such patents have not been attacked. It is held that patented lands have passed beyond the jurisdiction of the land department. Many other private cash or equivalent entries upon such lands remain of record, some of which have been held for cancellation for illegality, and all of which are liable to be so held when reached for action. These unpatented entries which are deemed illegal embrace a probable aggregate of between 100,000 and 200,000 acres.

Settlers have gone upon some of these lands with a view of claiming title thereto under the homestead or pre-emption laws as soon as their entries may be admitted, and applications to make filings or entries have been received and are awaiting action in several hundred cases.

The bill confirms titles which have passed by patent, and confirms all unpatented entries where there are no adverse claims. So far as the question is one between the United States and the private entryman, the United States by this bill waives the illegality in the entries and makes them valid. So far as any settlement, claim, or other conflicting right has accrued up to the date of the approval of the act, the entries are not validated. The confirmation proposed is that which does not affect the rights or claims of third parties, and does not propose to adjudicate nor make rules for adjudication in cases of conflicting claims, but leaves the respective claimants in such cases to the operation and remedies of existing laws. I perceive no objection to the legislation proposed. The only point which occurs to me as rendering the act open to any doubt in respect to its construction is the phrase where there are "no conflicting claims," in line 16. While this language seems broad enough to cover all cases of adverse rights or claims, its meaning might perhaps be rendered more certain if the words "settlements or applications" were also added, so that the paragraph should read (lines 15 and 16) "and when, at the date of the approval of this act there are no conflicting claims thereto, or settlements on such lands, or applications to enter the same," &c.

I return herewith Senator Plumb's letter, and copy of Senate bill No. 2509.

Very respectfully,

N. C. McFARLAND,
*Commissioner.*

Hon H. M. TELLER,
*Secretary of the Interior.*

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DEPARTMENT OF THE INTERIOR,
*Washington, January* 16, 1885.

SIR: Your letter of the 16th ultimo, calling for information as to the usage of the Department in regard to public lands once withdrawn and afterwards restored, was received and referred to the Commissioner of the General Land Office. I have the honor to inclose herewith copy of the report of the assistant commissioner on the subject, under date of the 12th instant, with the accompanying "General Notice," issued in 1854, "for restoring lands to market on certain proposed railroads."

Very respectfully,

M. L. JOSLYN,
*Acting Secretary.*

Hon. PHILETUS SAWYER, *United States Senate.*

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DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
*Washington, D. C., January* 12, 1885.

SIR: I am in receipt, through reference by the Acting Secretary on the 17th ultimo for report, of a letter dated the 16th ultimo, from Hon. Philetus Sawyer, United States Senate, asking to be furnished with answers to the following questions:

1. "Where offered public lands have been withdrawn from market by reason of grants made by Congress in aid of railroad construction, or other works of internal improvement, what has been the practice of the Land Department in restoring such

ıarket again on the termination of such withdrawals? Have the lands been
y a simple notice that on a certain day they would be subject to sale at
try, or have they been first proclaimed and offered at public auction?"
what States and Territories have offered lands been withdrawn and again
"

ıg what lines of road, and by reason of what grants for railroads, or other
have such withdrawals and restorations taken place?"
ve there been such withdrawals in anticipation of grants which were not
f so, inform me in what States or Territories, and how the land so withdrawn
restored to market."
ı you not give me an approximate statement of the quantity of offered lands
re been withdrawn by reason of, or in anticipation of, grants and again re-
market without notice, without the formality of a proclamation and public
'

, I have the honor to report as follows:
e adjustment of the grants to the several States to aid in the construction of
the practice of this office was, immediately upon the passage of the grant-
› withdraw from market the lands in both the odd and even numbered sec-
pecified townships within the probable limits of the grants, or, in other
› lands within a certain distance of a direct line between the termini of the
ioned in the granting act. Upon the definite location of the road the prac-
o restore the lands in both the odd and even numbered sections outside
of the grant, and in the alternate sections retained by the United States
he "granted" and "indemnity" limits of the grant.
storations were made by public notice, in which it was stated that the vacant
ds in certain townships therein mentioned, theretofore withdrawn from mar-
› benefit of the grant to aid in the construction of a certain railroad or rail-
required in the adjustment of said grant, or legally claimed by pre-emp-
which were subject to private entry at the date of withdrawal, would, on
ste, be restored to private entry at the ordinary minimum price of $1.25 per
; the prices to which they might have been graduated by the act of August

ption to this practice occurred in Michigan, where certain offered lands
been temporarily withdrawn for Indian purposes were restored by public
ıerein it was stated that the lands in question would on a certain day be
› market by public outcry and sold to the highest bidder, and after that
ınds remaining unsold would be subject to private entry.
ds along the routes of the Pacific roads, and within the limits of the tem-
thdrawals therefor, which upon the definite location of the roads fell out-
ermanent limits of the respective grants, were in most instances restored to
and pre-emption entry only, the greater portion of such lands having never
ed.
ew instances were any such lands restored to private entry. In such cases
had been offered prior to their withdrawal.
ing the alternate reserved sections within the "granted" limits, increased by
double minimum price of $2.50 per acre, the practice was upon the definite
the road to proclaim and *offer* such lands at not less than the double mini-
, and thereafter to hold such as were not disposed of as subject to private
2.50 per acre.
ıy reason, lands were reduced to $1.25 per acre after having been proclaimed
first at $1.25, and afterwards at $2.50 per acre, it does not appear to have
ractice to reoffer the same at the reduced price.
ınce of this kind occurred in the Upper Peninsula of Michigan, where cer-
in the even-numbered sections within the six-mile limits of the grant to said
ct of June 3, 1856, to aid in the construction of the Bay de Noquet and Mar-
ilroad, after having been proclaimed and offered at $2.50 per acre, were
ıdrawn with the lands granted to said State by act of June 3, 1856, and joint
of July 5, 1862, for the benefit of the road now known as the Chicago and
ern Railway, and falling between the 6 "granted" and 15-mile "indem-
ts of said grant were restored to private entry by public notice.
ase of the even-numbered sections within the six-mile limits of the grant to
of Wisconsin by act of June 3, 1856, for the benefit of the Chicago, Saint
Fond du Lac Railroad, such of said sections as had once been *offered* at $1.25
nd subsequently at $2.50, were reduced to $1.25 per acre (joint resolution
5, 1862), but held subject to homestead and pre-emption entry only. In
however, the lands were upon the market at the increased price at the date
duction, and the only notice issued respecting the same, was a simple order
al officers to reduce them in price and hold them subject to entry as above

said sections, however, as had in the first instance been *offered* at $2.50 per
subsequently reoffered at the reduced price.

The even-numbered sections within the six-mile limits of the originally located line of road from Marquette, Mich., to the Wisconsin State line which, after having been offered at $2.50, were reduced to $1.25 per acre by the joint resolution of July 5, 1862, were never *reoffered* at the reduced price, nor can I find that any order advising the local officers of their reduction was ever issued. The local officers at Marquette, Mich., however, admitted a number of entries, covering a considerable quantity of said lands, at private entry at the reduced price, some of which have been carried into patent.

A similar case occurred in the State of Wisconsin, where certain lands in the even sections within the granted limits of the grant by act of June 3, 1856, for the La Crosse and Milwaukee Railroad, but which fell within the indemnity limits of the grant upon the relocation of the road under the act of May 5, 1864, were sold at private entry at the reduced price without being reoffered at that price.

In passing upon certain of the entries of the Michigan lands above mentioned, you held in the cases of Sipchen *v.* Ross (9 Copp's L. O., 181) and Weimer *et al.* *v.* Ross (11 *id.*, 222) that as the lands in question were not reoffered at the reduced price after heir reduction by the joint resolution of 1862, they were not subject to private entry, and that such entries of the same were illegal.

It has not been the general practice to proclaim and offer at the double minimum price the even-numbered sections reserved to the United States within the limits of the grants to the Pacific roads, and thus render them subject to private entry, but to hold them subject to entry under the settlement laws only, at the increased price.

In reducing to the minimum price any lands of this class which had been increased to the double minimum price by reason of being within the temporary limits of the grant, but which, upon the definite location of the grant were thrown outside the permanent granted limits, and thus reduced in price, the practice has been to restore the same to homestead and pre-emption entry only.

Of late years it has been the invariable rule in reducing the price of lands which had been increased in price by reason of a railroad grant, and subsequently reduced for any reason, to instruct the local officers to hold the same as subject to homestead and pre-emption only.

From the foregoing it appears that, briefly stated, the practice of this office has been:

(1.) In the earlier grants to the States to restore to private entry by a simple public notice such lands as had once been offered.

(2.) In the grants to the Pacific railroads, where the lands were mostly unoffered, to restore to homestead and pre-emption entry.

(3.) In the earlier grants to proclaim and offer at the double minimum price the lands in the alternate sections reserved to the United States. If for any reason lands which had once been offered at $1.25, and afterward at $2.50, were reduced to $1.25 per acre, a second offering at that price does not appear, until of late years, to have been considered necessary in order to render them subject to private entry.

(4). To hold the reserved even-numbered sections within the granted limits of the Pacific Railroads subject to homestead and pre-emption entry only.

2 and 3. Offered lands have been withdrawn and restored to private entry by public notice in the manner first herein described, in the following States and along the lines of the following roads:

| State. | Date of granting act. | Name of railroad. |
|---|---|---|
| Florida | May 17, 1856 | Florida and Alabama. |
| Do | May 17, 1856 | Pensacola and Georgia. |
| Do | May 17, 1856 | Florida, Atlantic and Gulf Central. |
| Do | May 17, 1856 | Atlantic, Gulf and West India Transit. |
| Alabama | September 20, 1850 | Mobile and Ohio. |
| Do | May 17, 1856 | Alabama and Florida. |
| Do | June 3, 1856 | Memphis and Charleston. |
| Do | June 3, 1856 | Selma, Rome and Dalton. |
| Do | June 3, 1856 | Mobile and Girard. |
| Do | June 3, 1856 | Alabama and Chattanooga. |
| Do | June 3, 1856 | Coosa and Tennessee. |
| Do | June 3, 1856 | Coosa and Chattanooga. |
| Do | March 3, 1857 | Savannah and Albany. |
| Mississippi | September 20, 1850 | Mobile and Ohio. |
| Do | August 11, 1856 | Vicksburg and Meridian. |
| Louisiana | June 3, 1856 | New Orleans, Opelousas and Great Western. |
| Do | June 3, 1856 | Vicksburg, Shreveport and Texas. |
| Do | June 3, 1856 | Road from New Orleans to Mississippi State line. |
| Arkansas | February 9, 1853 | Cairo and Fulton. |
| Do | February 9, 1853 | Memphis and Little Rock. |
| Do | February 9, 1853 | Little Rock and Fort Smith. |
| Missouri | June 10, 1852 | Hannibal and Saint Joseph. |

| | Date of granting act. | Name of railroad. |
|---|---|---|
| ..... | June 10, 1852..... | Southwest Pacific. |
| ..... | February 9, 1853.. | Cairo and Fulton. |
| ..... | September 20, 1850. | Illinois Central. |
| ..... | June 3. 1856..... | Flint and Pere Marquette. |
| ..... | June 3, 1856..... | Grand Rapids and Indiana. |
| ..... | June 3, 1856..... | Detroit and Milwaukee. |
| ..... | June 3, 1856..... | Port Huron and Milwaukee. |
| ..... | June 3, 1856..... | Amboy, Lansing, and Traverse Bay. |
| ..... | June 3, 1856..... | Bay de Nouquet and Marquette. |
| ..... | June 3, 1856..... | Marquette and Ontonagon. |
| ..... | June 3, 1856..... | Ontonagon and State Line. |
| ..... | June 3, 1856..... | Marquette and State Line. |
| ..... | June 3, 1856.... | Chicago and Northwestern. |
| ..... | July 5, 1862.... | |
| ..... | June 3, 1856..... | Chicago, Saint Paul and Fond du Lac. |
| ..... | June 3, 1856..... | La Crosse and Milwaukee. |
| ..... | June 3, 1856..... | Saint Croix and Lake Superior. |
| ..... | May 15, 1856..... | Burlington and Missouri River. |
| ..... | May 15, 1856..... | Chicago, Rock Island and Pacific. |
| ..... | May 15, 1856..... | Dubuque and Pacific. |
| ..... | May 15, 1856 ..... | Cedar Rapids and Missouri River. |
| ..... | July 2, 1864..... | Burlington and Missouri River. |
| ..... | July 1, 1862.... | Western Pacific. |
| ..... | July 2, 1864.... | |

›n to the foregoing the lands within the limits of the following reserva-
›ithdrawals were restored to private entry by a simple public notice, to
atka military reservation in Florida; an Indian reservation in townships
., ranges 3, 4, and 5, E., Michigan; the lands withdrawn for the Portage
ake Superior, and the Lac La Belle Ship-Canals, Michigan, and for the im-
of the Fox and Wisconsin Rivers, Wisconsin, under act of August 8, 1846.
; the years 1853 and 1854, a number of withdrawals from sale and entry,
alid pre-emption claims, were made by direction of the President, at the
many members of Congress, in anticipation of grants to aid in the con-
certain proposed railroads, to wit:
9, 1853, the lands within 15 miles on either side of an air line between
iss., and Montgomery, Ala.
· 17, 1853, the lands within 15 miles on either side of a line from Vicks-
, to Shreveport, La.
5, 1854, the lands within 15 miles on each side of the proposed road from
ding, on the Mississippi River, via Camden, to the Texas boundary and
ı at Camden.
24, 1854, the lands in Alabama along the route of the proposed road from
a, Tenn., to the Mobile and Ohio Railroad, in Mississippi, and the branch
ı to Beard's Bluff, Ala.
28, 1854, the lands in Alabama, Mississippi, and Louisiana along the routes
wing proposed roads: From Mobile to Girard, Ala.; from Selma to Gun-
ng, Ala., and for the continuation of the road from Savannah, Ga., via
., to New Orleans, La., and the branch thereof from Albany, Ga., via
Montgomery, Ala.
, 1854, the lands along the route of the proposed "North Missouri Railroad,"
Louis, via Saint Charles, to the northern boundary of Missouri, in Schuy-

1854, the lands along the routes of the proposed railroads from Pensacola,
ntgomery, Ala., and from the last-named place, via Wetumpka, Elyton,
ıd Athens, to the Tennessee line.
854, the lands along the routes of the Oakland and Ottawa, and other pro-
ads in Michigan and Wisconsin.
854, the lands along the route of the Iron Mountain and Mississippi River
ı Missouri.
854, the lands within about 15 miles on each side of the route of the rail-
Dubuque, Iowa, via Saint Paul, Minn., to the mouth of Left Hand River,
ı Lac, Wis, A portion of this withdrawal was not "in anticipation,"
ing been made to the Territory of Minnesota by act of June 29, 1854 (10
in aid of the construction of a road from the southern boundary of said
ia Saint Paul, to the eastern boundary of the Territory, in the direction of
ior. Said grant was, however, repealed by act of August 4, 1854. (10 Stat.,
.)
having failed to make the grants for the roads for which these withdrawals
the Secretary of the Interior, on August 29, 1854, with the approbation of

the President, instructed this office to restore the lands thus withdrawn, and to decline in the future to withdrawn lads until the necessary grant had actually been made.

The lands in question (except those pre-empted during the withdrawal) were accordingly restored to market "precisely on the same terms and conditions as though the same had not been withdrawn from sale." The restorations were made by public notice, wherein it was set forth that, on a given day, the lands which were subject to private entry previous to their withdrawal (and not since pre-empted) would again be subject to private entry, and that the townships advertised for sale previous to withdrawal would be proclaimed for sale at some future date.

For Mr. Sawyer's information, I inclose a printed copy of the public notice (Notice No. 522), by which the most of the lands included in this class of withdrawals were restored.

5. The time which would be required to give the number of acres restored to market, by reason of falling outside the permanent limits of the various grants, without the formality of a proclamation and public offering, cannot be spared from the current duties of the office.

To furnish such information would necessitate an extended examination of the records in order to ascertain the quantity of vacant land within the townships or limits covered by a large number of restorations, at the date of such restorations.

The withdrawals "in anticipation," however, are referred to in the annual report of this office for the fiscal year ending June 30, 1854. The amount so withdrawn and restored is stated in said report to be about 31,000,000 acres.

Mr. Sawyer's letter is herewith returned.

I am, sir, very respectfully, your obedient servant,

L. HARRISON,
*Assistant Commissioner.*

Hon. H. M. TELLER,
*Secretary of the Interior.*

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## [No. 522.]

### GENERAL NOTICE FOR RESTORING LANDS TO MARKET ON CERTAIN PROPOSED RAILROADS.

Whereas certain lands situated in the States hereinafter mentioned were withdrawn from sale or entry (except for pre-emption claims) by order of the President of the United States, issued on the representations and at the urgent solicitations of members of both houses of Congress, in anticipation of grants being made to aid in the construction of proposed railroads, and Congress not having made grants therefor, the President has directed that all the lands heretofore thus withdrawn, until further orders, which were subject to entry at the date of withdrawal (except those since entered by pre-emption), shall be restored to market precisely on the same terms and conditions as though the same had not been withdrawn from sale.

Notice is therefore hereby given that, on and after Monday, the 9th day of October next, all the lands which were subject to private entry previous to withdrawal (except those since pre-empted) situated in the following States, Territory, and land districts, and particularly described in the notices of withdrawal enumerated below, will again be subject to private entry and location; and that those townships advertised for sale previous to withdrawal, the reservation of which has also been rescinded, will be reproclaimed for sale hereafter, to wit:

Lands described in public notice of withdrawal No. 494, August 19, 1853, for the railroad from Brandon, Miss., to Montgomery, Ala.: In the districts of lands subject to sale at Jackson, Miss.; Augusta, Miss.; Demopolis, Ala.; Cahaba, Ala.

No. 496, January 5, 1854, for the railroad from Gaines's Landing, on the Mississippi River, Arkansas, via Camden, and near Fulton, to the Texan boundary line, and its branches at Camden: In the districts of lands subject to sale at Helena, Ark.; Champagnole, Ark.; Little Rock, Ark.; Washington, Ark.

No. 498, January 24, 1854, for the railroad to connect the Chattanooga (Tennessee) with the Central Railroad of Mississippi, at the Mobile and Ohio road, and the branch from a point near Elyton to Beard's Bluff, at the southern bend of the Tennessee River, Alabama: In the districts of lands subject to sale at Demopolis, Ala.; Cahaba, Ala.; Tuscaloosa, Ala.; Huntsville, Ala.; Lebanon, Ala.

No. 500, February 28, 1854, for the railroad from Mobile to Girard, Ala., from Selma, to Gunter's Landing, on the Tennessee River, Alabama, and the continuation of the road from Savannah, Ga., via Mobile, Ala, to New Orleans, La., and the branch

thereof from Albany, Ga., via Eufaula, to Montgomery, Ala.: In the districts of lands subject to sale at Saint Stephens, Ala.; Sparta, Ala.; Cahaba, Ala.; Montgomery, Ala.; Tuscaloosa, Ala.; Huntsville, Ala.; Lebanon, Ala.; Augusta, Miss.; Greensburg, La.; New Orleans, La.

No. 504, March 28, 1854, for the North Missouri Railroad: In the districts of lands subject to sale at Saint Louis, Mo.; Palmyra, Mo.; Milan, Mo.; Fayette, Mo.

No. 505, March 30, 1854, for railroads from Pensacola, Fla., to Montgomery, Ala., and from the last-mentioned place, via Wetumpka, Elyton, Decatur, and Athens, to the Tennessee line: In the districts of lands subject to sale at Cahaba, Ala.; Tuscaloosa, Ala.; Huntsville, Ala.; Montgomery, Ala.; Tallahassee. Fla.

No. 507, May 16, 1854, for the Oakland and Ottawa, and other proposed railroads, and not released by notice No. 518, June 31, 1854: In the districts of lands subject to sale at Ionia, Mich.; Genessee, Mich.; Detroit, Mich.; Duncan, Mich.; Sault St. Marie, Mich.; Menasha, Wis.

No. 515, June 8, 1854, for the Iron Mountain and Mississippi River Railroad: In the districts of lands subject to sale at Saint Louis, Mo.; Jackson, Mo.

No. 519, July 15, 1854, for the railroad from Dubuque, Iowa, via Saint Paul, Minn., to Left Hand River, at Fond du Lac, Lake Superior, Wisconsin (except the lands in Wisconsin heretofore restored by notice No. 520): In the districts of lands subject to sale at Dubuque, Iowa; Stillwater, Minn.; Brownsville, Minn.; Winona, Minn.; Red Wing, Minn.; Minneapolis, Minn.

That the lands withdrawn in the districts of lands subject to sale at Monroe and Natchitoches, La., by notice No. 495, December 17, 1853, for the railroad from Shreveport to Vicksburg, in said State, and of which the reservation was extended by notice No. 516, will be subject to entry again on the 7th of December, 1854, the time fixed in said notice; and that the respective registers and receivers of the several land offices above named will carry this notice into effect *without awaiting further instructions from this office.*

Given under my hand at the General Land Office, at the city of Washington, this 5th day of September, A. D. 1854.

By order of the President:

JOHN WILSON,
*Commissioner.*

# IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1885.—Ordered to be printed.

Mr. HARRIS, from the Committee on Finance, submitted the following

## REPORT:

[To accompany bill H. R. 652.]

The Committee on Finance, to which was referred the bill (H. R. 652) for the relief of Brannin, Summers & Co., having considered the same, adopts the following report made to the House of Representatives at the first session of the Forty-eighth Congress as a full and fair statement of the facts of this case, and upon the facts the committee concurs in the conclusions of the House report, as follows:

H. N. Soria & Co. were merchants in the city of New Orleans, whose principal business was the importation of Havana sugars. In the winter of 1868–'69 they imported a large amount of sugars into New Orleans, which were placed in warehouse. At that time Brannin, Summers & Co. were engaged in business as commission merchants and factors in the city of Louisville, Ky., and in a branch house in the city of New Orleans, under the name and style of "Summers & Brannin," both firms being composed of the same individuals. A portion of the sugars which had been imported by H. N. Soria & Co. were consigned to Brannin, Summers & Co., of Louisville, through their branch house in New Orleans. The sugars thus received were sold to various parties by the Louisville firm and accounted for to Soria & Co. About the middle of March, 1869, Brannin, Summers & Co., learning that seizures of foreign sugars were being made by customs officers in other cities, immediately suspended sales of sugars remaining in their hands, and promptly instructed their branch house at New Orleans to ascertain and report whether Soria & Co. had fully complied with the law in their importations. In response to this demand Soria & Co. produced the following letter:

UNITED STATES CUSTOM-HOUSE, COLLECTOR'S OFFICE,
*New Orleans, March 22,* 1869.

GENTLEMEN: In answer to your inquiry regarding the sugars imported by you and sent by steamboat to Louisville, Ky., we find by an examination of the books of this office that the merchandise was *properly entered at this port and withdrawn in compliance with the revenue laws of the United States, &c.*,

Very respectfully, yours, &c.,

[SEAL.]

R. S. SPRATE,
*Special Agent Treasury Department.*
W. H. WEST,
*Special Agent Treasury Department.*
P. B. FOUNDEE,
*Special Agent Treasury Department.*

Messrs. H. N. SORIA & CO.

Accepting this certificate as conclusive of the facts therein stated, Brannin, Summers & Co. sold the remainder of the sugars in their hands, and made a full settlement with Soria & Co.

About the 25th of May, 1869, which was subsequent to their settlement with Soria & Co., James P. Luce, collector of customs at Louisville, Ky., called upon Brannin, Summers & Co. for information in regard to said sugars. They freely gave him all the information in their possession, and also furnished him the above certificate from the custom-house at New Orleans (the original port of entry), which he pronounced entirely satisfactory. About a week after this, Mr. Luce, having received further in-

formation, notified Brannin, Summers & Co. that he must seize the sugars. They therefore promptly gave him a list of the names and addresses of all persons to whom they had sold sugars, submitted their books to his inspection, and afforded every facility for a full and complete investigation. The sugars were then seized by the officers of customs in the hands of the several parties to whom they had been sold, and were subsequently libeled for unpaid duties.

The petitioners immediately sent one of their counsel to New Orleans, and on full investigation the following facts were disclosed: H. N. Soria & Co., the importers of the sugars, in conjunction with certain officers of the custom-house at New Orleans, had deliberately planned an arrangement by which to evade the payment of duties provided by law. This was effected by storing the sugars in a bonded warehouse belonging to Soria & Co., at New Orleans. Afterwards, by fraudulent collusion with S. H Brown, the Government storekeeper in charge of said warehouse; with W. C. Gray, special deputy collector of customs; R. L. Ream, superintendent of bonded warehouses; and J. C. White, deputy naval officer, the sugars were withdrawn from the warehouse, upon transportation bonds and permits, with the ostensible design of shipment and transfer to the custody of custom-house officers at Cincinnati, Louisville, and Saint Louis, when, in fact, they were shipped to private individuals and firms. This was done in open and deliberate violation of the transportation bonds and permits, and with the object of distributing the sugars throughout the country so that their identity would be destroyed and the fraud upon the Government be thus made successful. The conspirators, instead of transporting these sugars under the bonds, as required by law, fraudulently abstracted the bonds, and put the sugars on the market. A portion of these sugars having thus come into the possession of, and been sold by, Brannin, Summers & Co., they were compelled, as honorable merchants, to protect their own customers from loss or inconvenience by the act of the Government.

Their counsel, returning from New Orleans, advised them that the Government had sufficient evidence to insure a condemnation and forfeiture of all the sugars seized at Louisville, and urged them, if possible, to effect a compromise of the cases. Their means being hung up by the pending litigation, threatened with suspension and bankruptcy, and thus informed by their counsel that their property was subject to forfeiture, the petitioners secured a compromise with the Government by paying all the duties and costs which had been incurred, amounting to the sum of $8,593.62 in gold, which, together with $1,890.60 premium paid for gold, and $558.41 court costs, made a total in currency of $11,042.63. They also paid $1.187.65, being the amount of duties and costs on seventy six boxes of said sugars, which were seized in Cincinnati, Ohio, in the hands of their vendees. The total amount paid for duties and costs was $12,230.28 in currency. In addition to this, counsel fees and other expenses amounted to over $2,500, for which petitioners make no claim against the Government.

Having paid all the duties, Brannin, Summers & Co. now demanded reclamation of Soria & Co., and for the first time it was ascertained that Soria & Co. were not the real owners of the sugars, but were only agents of one J. S. Clark, who was fraudulently engaged in importing sugars under cover of Soria & Co., and by combination and collusion with the custom-house officers. It was also shown that Soria & Co. were utterly insolvent. Brannin, Summers & Co. then brought suit against Clark in the courts of Louisiana, to recover the sums paid by them to the Government. On the 28th of February, 1872, said suit was decided adversely to the petitioners, the court holding that as Brannin, Summers & Co. were innocent purchasers of the sugars, without any notice or suspicion of the fraud, the sugars in their hands were not liable to forfeiture nor for the payment of duties, and consequently they acquired no right of indemnity or remuneration as against Clark. This decision was in the State courts, but in another case, arising upon sugars shipped by the same parties to merchants in Cincinnati, the United States district court made a similar decision.

Having no privity and therefore no cause of action upon the bonds of the custom-house officers who committed this fraud, and having under these decisions no further recourse against the fraudulent importer, Brannin, Summers, & Co. immediately applied to Congress for repayment of the duties so paid by them under a mistake of law.

The record contains the evidence of H. N. Soria, S. H. Brown, and others; letters of Hon. B. H. Bristow, collectors James P. Luce and Joseph F. Casey; the statement of E. C. Banfield, Solicitor of the Treasury, and a copy of the certificate of the custom-house officers at New Orleans, copy of transportation bond, copy of warehouse bond, itemized account of duties and costs paid, the record and opinion in the State court of Louisiana and United States district court at Cincinnati. From this record, the committee are of opinion that the following points are clearly established:

1. That the sugars were imported into New Orleans and fraudulently passed through the custom-house without payment of duties. They were lawfully withdrawn from the custom-house upon transportation bonds, but the terms of these bonds were subsequently violated by failing to send the sugars to the proper ports, and to enter them for proper payment of duties at said ports.

2. That this fraud was accomplished through the actual connivance and assistance of the custom-house officers at New Orleans.

3. That Brannin, Summers & Co. were no parties to the fraud, and had neither notice nor suspicion of its existence. These sugars were openly and regularly shipped to them from New Orleans, with the sanction and approval of officers of customs at that port, by public conveyance, under open and ordinary bills of lading, which distinctly consigned them to Brannin, Summers & Co., at Louisville, Ky. The sugars were duly received by said firm, were advertised in the newspapers, offered for sale in the open market, in the ordinary and usual course of business, and were all sold at the best market prices to purchasers of the highest commercial standing, without the slightest circumstance or reason to suspect any fraud or irregularity in regard to them. On the contrary, the evidence shows that in point of fact the sugars were entered and withdrawn from the bonded warehouse according to law. The transportation bonds, the custom-house certificate, the books and records of the custom-house, all show that the withdrawal was in strict accordance with the law. The fraud occurred afterward, and consisted in the violation of said bond, by delivering the sugars to the petitioners and other commission merchants and not to custom-houses designated in said bond. Such a fraud could not have been suspected or detected by the most extraordinary diligence or prudence on the part of claimants.

The entire connection of Brannin, Summers & Co., as is conclusively and uncontradictedly shown by the evidence, was honest and honorable, and strictly within the ordinary scope and custom of their business. The whole transaction only illustrates the high character of the firm for social and commercial integrity, which is fully conceded by all the officers of the Government and witnesses in the case.

4. That when, of their own accord, they sought evidence that all was right and fair concerning the sugars, Brannin, Summers & Co. were furnished that evidence from the custom-house itself, and this evidence was declared to be sufficient by the customs officer at Louisville.

5. Relying on this evidence, Brannin, Summers & Co. sold the sugars to their own customers and paid over all sums due to their consignors.

6. After all this was done, the sugars were seized, libeled for forfeiture, and to avoid their destruction in business, and under the advice of counsel, Brannin, Summers & Co. agreed to pay and did pay the duties to the Government, which duties the State courts and United States district courts subsequently decided they were not liable to pay.

The Committee of Ways and Means of the Forty-third Congress unanimously reported a bill to pay the claim of petitioners. A similar report was made to the Forty-fourth Congress and adopted without division. It also received the approval of the committee in the Forty-fifth Congress and was reported to the House, but not acted upon for want of time, and was reported fovorably to the House, but not acted upon, in the Forty-sixth Congress, and was again favorably reported to the House in the Forty-seventh Congress, and was not acted on for want of time.

Your committee report the bill back and recommend that it pass.

O

JANUARY 20, 1885.—Ordered to be printed.

KSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 1628.]

*mittee on Pensions, to whom was referred the bill (S. 1628) grant-*
*pension to Elizabeth Howard, having carefully considered the same,*
*fully report:*

Isaiah Daniel, in October, 1862, enlisted as a private in Com-
f the Harlan County (Kentucky) Battalion, a State organization;
was captured in January, 1863, by the Confederates, and was
December, 1863, near Salisbury, N. C., while trying to escape.
5th September, 1869, the said Elizabeth Howard filed her appli-
or pension, alleging that she was the widow of said Isaiah
and as such was entitled to pension.
Harlan County records furnish no evidence of the alleged mar-

Howard and Joseph Blanton state that they were present on
the 10th November, 1862, at the house of Jesse Hilton, in Har-
nty, Kentucky, and "saw Isaiah Daniel married to Elizabeth
by David Baily, who has since moved away from this county."
official rank and character are nowhere disclosed.
ssuming the validity of the marriage, it appears that the widow
ently married one Howard; that she makes her application as
h Howard. Whether the Howard husband is living does not
rom the papers before your committee, or, if living, what his

ɔNGRESS, } SENATE. { REPORT
ession. } { No. 1029.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1885.—Ordered to be printed.

ıKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 1594.]

*ımittee on Pensions, to whom was referred the bill (S. 1594) grant- pension to Mrs. Elizabeth F. Asper, having examined the same, tfully report:*

on the 23d of December, 1874, the claimant filed her applica- pension as the widow of Joel F. Asper, late lieutenant-colonel ıeventh Ohio Volunteers, who died of heart disease on or about · 1, 1872. The case was thoroughly and extensively investi- ıd examined in the Pension Office, and was rejected by the Com- er. It was thereafter reopened and again carefully examined sidered and again rejected. It is before your committee on the ıate of facts on which the Pension Office rejected the claim. ıcts are fully and correctly set forth in the elaborate report of ısion receiver to the Commissioner, which report is as follows:

)4.—*Elizabeth, widow of Joel F. Asper, lieutenant-colonel Seventh Ohio Volunteers.*

ıcer on whose account pension is claimed enlisted May 20, 1862, and was dis- March 2, 1863.

15th of April, 1863, he filed an application for pension, alleging that he had ınded in the left thigh by a musket ball at the battle of Winchester, Va., , 1862, and that after the wound healed he went on duty, and in the Rappa- campaign was "prostrated and broken down," and after a further rest went ıgain at Harper's Ferry, Va., from October 16, 1862, to December 10, 1862, by exposure and the strain and over use of the right leg, caused by the weak- ıe left leg, he was disabled again, by an injury to the right knee, called an tion of the synovial membrane of the knee joint."

ı pensioned on account of "swelling, stiffness, and weakness of the right Having re-enlisted in the one hundred days' service in 1864, his pension was but in 1866, upon his filing an application for renewal, his name was again ı the rolls for "injury of the right knee," for which disability he continued ɔension up to the time of his death.

'er claimed pension for nor alleged in any paper filed in reference to his r disability or form of disability other than those mentioned above. He died 1, 1872, of "heart disease." The theory upon which the widow's claim is that the heart disease was the result of rheumatism originating in the serv- ıg manifested itself first in the right knee. The claimant asserts that this is y the evidence on file.

ɔords show that the officer was granted a leave of absence for seven days in 1862, on a surgeon's certificate, stating that he was suffering from catarrh nstion, produced from exposure on march. At the expiration of his leave he ıitted to go home upon a surgeon's certificate that he had been suffering from ttent fever" for two weeks, and was much reduced in strength and weight. d of February he was present with the regiment again, and continued on

duty until the battle of Winchester, Va., March 23, 1862, where he is reported "wounded in leg." Rolls from April 30, 1862, to June 60, 1862, report him "absent with leave at Warren, Ohio, on account of said wound." He is next reported sick at Washington, D. C., since September 4, 1862, and records of Surgeon-General's Office show him under treatment here from September — to October 15, 1862, for "febris remittens." He then returned to his regiment, and continued on duty until December 10, 1862. From December 12, 1862, to January 13, 1863, he was at Washington under treatment for "inflammation of the knee," also from February 14, 1863, to March 10, 1863, for "synovitis right knee." He was discharged on a surgeon's certificate reporting him incapable of performing the duties of an officer because of "synovitis of right knee from straining the knee, by favoring the other limb on account of a wound of the thigh, received in action at Winchester, March 23, 1862." This certificate is signed by Charles L. Allen, surgeon U. S. A., who now figures as a witness in the widow's claim. The records afford no further evidence of disability during the service.

On the 16th of March, 1863, he was again examined by Dr. Charles L. Allen, with a view to making application for a pension, and said doctor certified as follows: "Lieutenant-Colonel Asper now suffers from swelling, stiffness, and weakness of the right knee, the results of synovitis, brought on by straining the knee while favoring the left leg."

On the 12th of April, 1866, he was examined by a United States examining surgeon, who gave a certificate precisely the same as that of Dr. Allen. This is all the evidence we have in the invalid claim, and it is perfectly consistent throughout, showing a case of synovitis of the right knee produced by straining and over use of that leg through favoring the left leg.

Nothing is heard of rheumatism or disease of heart until the widow files her application in December, 1874, alleging that her husband contracted rheumatic disease of the heart while in the service.

In the support of her allegations she files—

(1) A joint affidavit from two former members of Company H, Seventh Ohio Volunteers (S. S. Pelton and James Moser), stating that after Colonel Asper rejoined the regiment subsequent to his being wounded he became lame in his right leg, and told affiants that he was suffering from an inflamed condition of his right knee, being compelled to use his right leg more in consequence of his wound, and that he continued to complain of said trouble and rheumatism and his right leg as long as he remained in the regiment.

(2) An affidavit of Dr. Charles L. Allen, the surgeon who signed the certificate upon which the officer was discharged, stating that he considered the case one of rheumatic synovities, or articular rheumatism.

(3) An affidavit of Dr. Daniel B. Woods, who says that he saw Colonel Asper a few days after his discharge, and found his right knee joint affected with articular rheumatism of a subacute or chronic form, which had existed some time, and was attributed by him (Asper) to over-use of the right limb from the impaired use of the left.

(4) An affidavit of Julian Harman, M. D., stating that he saw Colonel Asper in 1869, and from some examination and observation inferred that he had some disease of the heart which had slowly developed for several years. (Drs. Woods and Harman unite in stating that pericarditis or endocarditis is a very common sequence of such lesions of the joints, and results in effusion into the pericardium and pleural sac, of which they believe he died.)

(5) An affidavit of Dr. C. L. Belden, a brother-in-law of the deceased officer, who testifies in a rambling and confused way, inextricably, that he knows from personal observation, with what he has heard or learned from correspondence. The burden of his testimony is that in addition to the inflammation of the right knee, Colonel Asper was "in a state of nervous prostration" when he went to Washington for treatment, in December, 1862; that the attending physicians pronounced his trouble articular rheumatism and extreme nervous prostration; that the colonel, knowing the nervous trouble and knee difficulty would secure to him pension, neglected to make known the important fact that he was unable to lie in b d or in a recumbent position without a sense of suffocation, and inability to walk fast or ascend a flight of stairs without producing laborious and unnatural breathing, &c. The witness then gives his theory of the case as follows:

"The facts developed in the case of the colonel are that blood poison probably existed as a result of the gunshot when he returned to the regiment, and over exertion, together with favoring the wounded limb, created an inflammation of the knee, and under the excitement of such an occasion was materially attracted to the heart and surroundings, producing pericarditis in chronic form, causing serum of the blood to be deposited in the pericardium, producing hydropericardium, of which he died." (He admits, however, that he never treated Colonel Asper.)

(6) An affidavit of Dr. Robert D. Murray, who says he served in the Seventh Ohio and was intimately acquainted with Colonel Asper during the first eleven months of

vice, and starts out by asserting (what the record shows to be untrue) that As-
s in robust health, never having a sick day, and without any signs whatever of
or feebleness up to the 23d of March, 1862, when he was wounded. He then
to say that he met him after the close of the war in Warren, Ohio, and fre-
y in 1869 and 1870, while Asper was serving as a member of Congress from Mis-
but instead of stating what his physical condition was at those times, he next
to give a history of Asper from the time he was wounded. He was, witness
uch disheartened and downcast from the effects of his wound, and made a slow
ry. During his one hundred days' service he was made a prisoner, which still
epressed him, and with the debility caused by his wound aggravated a nervous,
eepless condition, which had commenced soon after he was shot in 1862. He
des:
e history of his case and my knowledge of him convinced me as long ago as
at he was suffering from the affection known as irritable heart; my subsequent
tion with him in Washington, D. C., confirmed this impression. The points
arned being his antecedent freedom from rheumatism, his inability to walk up
with ease, the difficulty he had of being unable to sleep soundly and with com-
nd the gradual progress of his affliction. I believe the cause of death in the
f the said Asper to have been irritable heart, brought on by his wound, his
ty because of it to resume active duty in a short time, and a subsequent service
Army." (He never treated Asper).
Two affidavits from Dr. J. A. Munk. In the first, filed in December, 1874, he
e was the family physician of Colonel Asper at the time of his death, and that
l from rheumatic disease of the heart. In the second affidavit, filed in Febru-
82, Dr. Munk says:
had suffered for a long time from chronic pericarditis, brought on by rheuma-
which resulted in hydropericardium, the disease causing his death. * * *
the history of the case and the cause of the disease while the patient was un-
r care I am fully convinced that his disease originated in rheumatism first de-
ng in the knee-joint, and by metastasis finally affecting the heart." (The United
examining surgeon of Chillicothe, Mo., says Dr. Munk is not strictly reliable,
obably would be in a matter of this kind.)
The affidavit of Dr. W. Paine, who says that claimant's husband contracted
atic disease of the heart while in the United States service, the effects of which
his death. That he (affiant) was his family physician for along time, and is
at his opinion is correct.
ill be seen that there is no evidence of heart disease in the service or prior to
It will also be seen that there is no evidence of rheumatism in the service un-
e disease of right knee was rheumatism. In support of that theory we have the
ony of two soldiers who are not competent witnesses on a point of that kind,
e affidavit of Dr. Allen, which is not in accordance with his certificates given
he had the officer before him. Opposed to it is the statement of said officer him-
the time he applied for pension, and the record (Dr. Woods, who testifies that
Asper a few days after discharge, and that he found the right knee joint af-
with articular rheumatism) does not state how he determined that fact. It
ot appear that he then, or at any time, saw claimant in a professional capacity.
slip, dated October 26, 1883, Dr. Hood says: "Unless it can be shown that sol-
d either rheumatism or disease of heart originating in the service, the claim
be rejected." There is not a particle of evidence that the synovitis of right
was rheumatic, and no allegation that he had rheumatism in any other joint or
. The latter fact alone is sufficient to show that the claim now set up in regard
knee is a mere assumption, evidently an after thought.
slip, dated January 12, 1884, Dr. Hood says (repeating what he had said in
hat if rheumatism be admitted the claim is good.

on the state of facts and evidence thus clearly and correctly set
h, your committee are of the opinion that the decision of the Pen-
Office in rejecting the claim was entirely correct, and should not
sturbed, and accordingly recommend that the bill be indefinitely
oned by the Senate.

C

JANUARY 20, 1885.—Ordered to be printed.

:SON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 586.]

*nittee on Pensions, to whom was referred the bill (S. 586) grant-increase of pension to Samuel S. Hite, have examined the same, ort as follows:*

ıid Samuel S. Hite, late private in Company C, Sixth Illinois filed his original application for pension on the 29th Novem-, on the ground of gunshot wound of head, resulting in loss of ınd partial paralysis of left side of face, with impairment of After proper investigation and examination he was first pen-eptember 3, 1866, at $4 per month. This rating was subse-ncreased to $8 per month, from November 25, 1865, the date scharge. It was again increased to $12 per month from June then to $14 per month from May 5, 1875. Subsequently, on cation for increase, and by the decision of the Secretary of In-s pension was increased to $16 per month from December 28, l to $18 per month from April 14, 1879. These ratings were lance with reports of the examining surgeons, by whom he was examined. His last medical examination. as appears from 's was made by a Board at Washington in 1882, which found his r "to be equal to and entitling him to total (third) grade, $18," h.

edical report of the Department, under date of May 16, 1882, ıt the claimant was liberally dealt within the foregoing ratings, he has no just cause of complaint.

the act of March 3, 1883, the claimant's pension was further l to $24 per month from the date of said act, and he is now in pt of that pension. The bill under consideration proposes to his pension to $37.50 per month. No additional evidence in of this proposed increase is presented to your committee. The ds just as it did before the Pension Office, and there is nothing pers to show that the claimant is not receiving all that he is o under the general law, or that his case should be made an ı to the general rule.

ommittee accordingly recommend that the bill be indefinitely d by the Senate.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1031.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 1334.]

*The Committee on Pensions, to whom was referred the bill (S. 1334) granting arrears of pension to Mary Ringgold Archer, widow of Robert H. Archer, deceased, having carefully examined the same, report as follows:*

This bill seeks to grant arrears of pension to the widow of Robert H. Archer from the date of his death in August, 1875, to July, 1882, at which time her claim was filed and the pension granted. No claim to pension was filed by the soldier during his life-time, and consequently there is no accrued pension for that period.

Section 4713, Revised Statutes United States, provides that in all cases where the fatal disease was contracted prior to March 4, 1861, that unless a claim was filed within three years after the death of the soldier, the pension shall commence from the date of filing, by the party prosecuting the claim, the last paper necessary to establish the same. It is shown by the evidence on which the widow was pensioned that the disease which caused the soldier's death originated prior to March 4, 1861. Hence there never was any valid claim for arrears. There is nothing to make this case an exception to the general rule.

Your committee recommend that the bill be indefinitely postponed by the Senate.

JANUARY 20, 1885.—Ordered to be printed.

ACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 2082.]

*Committee on Pensions, to whom was referred the bill (S. 2082) nting a pension to George W. Nokes, have carefully examined the e, and report as follows:*

it the said George W. Nokes, in March, 1882, filed his application valid pension, alleging that while in the service as a private in any A, Seventy-second Missouri Militia, about the 4th of January, he was taken with measles; that while proceeding to Springfield s captured by the Confederates, stripped of his overcoat, and took which settled "in his breast on his lungs," which, he alleges, has abled him that he has not since been able to perform hard, manual

The claim was rejected by the Pension Office on the ground that ldier was in the militia service of the State of Missouri, and failed secute his claim for pension to a successful issue prior to July 4, as provided by paragraph 3, section 4693, of the Revised Statutes. laim was, in fact, barred before his application was filed, and no nation or excuse is offered for the delay. The action of the Pen- Office was a correct administration of the law, and no reasons are sed in the papers for making the case an exception to the general

It does not appear that the claimant's command was either in rvice of the United States or co-operating with the Government when the alleged disability was contracted, so that if not barred pers present no case for relief.

ir committee accordingly recommend that the bill be indefinitely oned by the Senate.

RESS, } SENATE. { REPORT
on. } { No. 1033

N THE SENATE OF THE UNITED STATES.

JANUARY 20, 1885.—Ordered to be printed.

R, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 1654.]

*ttee on Pensions, to whom was referred the bill (S. 1654) grant-sion to Selinda E. Smith, has examined the same and report:*

E. Smith is the sister of William H. Smith, a private in Company eth Indiana Infantry, who died while in the service in 1862. died in 1865, and the mother in 1866; the sister, Selinda, t seventeen years old at the death of her brother and twenty- of age at the death of her mother. She applied for a pension dent relative, which was rejected at the Pension Office on the t she was over sixteen years of age at the death of her mother. previous to the soldier's enlistment he resided with his father r, the sister Selinda being one of the family.

ily then lived at Lawrenceburg, Ind. It is claimed that she, as dependent upon her brother's support in the following: Villiam Smith, her brother, worked at coopering in Lawrence- earned on the average about $8 per week during the three preceding his enlistment; that out of said earnings he paid e and lot purchased by his father, which cost about $400; ther had no property excepting this house and lot and some goods; all of his said real and personal estate did not ex- at any time between the years from 1860 to 1865; he had no m any source except that derived from doing jobs of work on laborer, which would not exceed $150 per annum, and that had no property or income whatever.

ier was unmarried and left neither widow, child, or children. uted to the support of the family, of which the sister, Selinda, ber, by furnishing groceries and provisions for the support of of which he was also a member, and paying for them out of earned as a cooper.

mant is now and has been for several years a helpless invalid, roperty or income, entirely dependent upon the charity of l neighbors for support.

sion of the Department was entirely correct, and there is no pon which such a claim could be allowed that has ever been by Congress. To grant a pension in such a case would be loor which would be dangerous in the extreme.

e your committee recommend that the bill be indefinitely post-

NGRESS, } SENATE. { REPORT
ssion. } { No. 1034.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1885.—Ordered to be printed.

ɔHELL, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 6480.]

*mittee on Pensions, to whom was referred the bill (H. R. 6480) ng a pension to Margaret G. Halpine, have examined the same, port:*

port of the Committee on Invalid Pensions of the House of Rep- ives made during the last session (House Report No. 1502) states ı as follows:

e is the application of Margaret G. Halpine, widow of the late Charles G. ssistant adjutant-general, with rank of major, in the service of the United

eased was well known throughout the country, not only for his gallantry vice, but as the author of the brilliant war songs which appeared over the me "Private Miles O'Reilly."

ted April 20, 1861, as a lieutenant, and resigned as assistant adjutant-gen- 20, 1864, thus serving three years.

originally a member of the Sixty-ninth New York; was subsequently ap- pon the staff of General Hunter; was with him at Hilton Head, and accom- n in the campaign of Missouri, after the close of which he was transferred ff of General Halleck, and afterward, in failing health, to the staff of Gen- He also served with General Hunter in the expedition against Lynchburg,

vice of General Halpine in the Department of the South and along the coast arduous. He was engaged in the siege of Fort Pulaski, and had the honor ıg the swords of the officers of the capitulating force in April, 1862. During General Halpine, from exposure, contracted the erysipelas and inflamma- eyes, from which he suffered greatly, and from this disease and the effect and sand became entirely blind in his right eye, and much impaired in the is left eye. After struggling with this disease, while trying to serve his ıntil he came near being totally blind, he finally, April 5, 1864, submitted ation, to take effect April 20 of that year.

f absence for sixty days was given, but his resignation was not then ac-

leave of absence he was not allowed to avail himself, as complex and im- ıblic affairs relating to the service were in his hands, and he was compelled ıe them.

increasing disability compelled him to again tender his resignation, and it antly accepted.

Halpine left surviving him his said widow and several minor children, the of whom was four years of age. The deceased, a short time before his de preparations to apply for a pension on account of the loss of his eye and ying disability.

operty was left by the deceased and by the liberal action of his friends, but ian of his children absconded with nearly all of it about five years ago, ıe family in straitened circumstances, the daughters (and the widow until ı failed) supporting themselves by teaching.

Halpine died in August, 1868, from congestion of the brain.

The following sworn certificate shows the connection between the disease contracted in the service and his death, viz:

Having been General Charles G. Halpine's family physician for many years, both before he entered the service of the United States Army and while home on sick-leave, and also up to the time of his death, I am of opinion that the exposure, combined with severe mental and physical strain, consequent on the duties imposed by his Army service, caused the loss of the sight and led primarily to other accumulative ills, and subsequent congestive condition as shown by the autopsy.

Very respectfully,

E. WHITNEY, M. D.

Sworn to before me this 23d day of May, 1882; and I also certify that I have no interest in the above.

[SEAL.]

OTTO BAUMANN,
*Notary Public, New York County*, 217.

Exhibits A, B, C, D, E, F, and G are hereto annexed as portions of this report.

This committee is of the opinion that justice to the widow and children of General Halpine requires that a pension should be granted in their behalf, and the passage of the accompanying bill is recommended.

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EXHIBIT A.

102 WEST TWENTY-FIFTH STREET,
*New York, May* 21, 1862.

This certifies that I have been in daily attendance on Maj. C. G. Halpine since the 27th ultimo, and that during the period named he has been confined to the house and wholly unfitted for duty. The primary disease contracted prior to his arrival here—diarrhea—has been succeeded by a severe and obstinate attack of erysipelas, which, settling in his eyes, has left a peculiar stage of inflammation that renders them extremely sensitive to the feeblest light. From this cause he has suffered severely, and for some time was almost deprived of sight. Though now convalescing rapidly, his eyes are still very weak and sensitive, and, in my opinion, he will not be able to resume duty in less than a week.

Very respectfully, yours, &c.,

E. WHITNEY, M. D.

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EXHIBIT B.

NEW YORK, *December* 22, 1862.

*To whom it may concern:*

This will certify that Lieut. Col. C. G. Halpine is incapacitated for military duty by reason of disease of the eyes.

The probability is that his eyes will require active treatment for at least one month.

C. R. AGNEW, M. D.,
362 *Fifth avenue.*

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EXHIBIT C.

NEW YORK, *June* 18, 1863.

MY DEAR SIR: My friend Colonel Halpine, who has lost the sight of one eye, by long exposure to the sun and sand at Hilton Head, goes to Washington to ask that he may be transferred to the West. I desire to add my earnest appeal in favor of his request. Colonel Halpine has been a most efficient and valuable officer. He is in all respects a most devoted, capable, and true man. He has earned the change which his health requires, or I would not press it so earnestly upon your consideration.

Truly, yours,

THURLOW WEED.

Hon. E. M. STANTON.

EXHIBIT D.

EAST SEVENTY-THIRD STREET,
*New York, July* 31, 1863.

GENERAL: On the medical certificate of Surgeon J. F. Hammond, U. S. A., inclosed, I have the honor most respectfully to request to be relieved from duty with the Tenth Army Corps, Department of the South, such relief to date from the 1st day of July, 1863.

This application is made for the reason that I have all but completely lost the sight of my right eye, while that of the left is seriously threatened by the same disease which has injured the right; and from an experience which shows that the white sands, glaring sunlight, and warm climate of the Department of the South give me no hope of recovery while exposed to such influences.

I ask that my relief may be dated from the first day of this month, from a sentiment of justice to Maj. Edw. W. Smith, assistant adjutant-general, Department of the South, and from an unwillingness to bear the title of assistant adjutant-general, Tenth Army Corps, while another officer has been discharging my duties at a time so critical and momentous.

I have the honor to be, general, very respectfully, your most obedient servant,

CHAS. G. HALPINE
*Assistant Adjutant-General Volunteers.*

To the ADJUTANT-GENERAL UNITED STATES ARMY, *Washington.*

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EXHIBIT E.

466 BROOME STREET, NEW YORK, *July* 31, 1863.

Lieut. Col. C. G. Halpine, assistant adjutant-general, having applied to me for a certificate on which to base an application to be permanently relieved from duty at his present station, I hereby certify that I have carefully examined this officer, and find that he is suffering from leucoma or albugo, which has for the present nearly completely destroyed the sight of his right eye and has impaired that of his left. From the history of the case it is the result of inflammation of the cornea, at least, and I have no doubt that the inflammation was caused by the amount of light in the atmosphere, to which his eyes were unaccustomed, to the reflection of it on to his eyes from the white sand and the water where he has of late been on duty, and by the debilitating influences of the heat of the climate. His repeated experience demonstrates this very clearly.

I would therefore recommend, as necessary to the permanent restoration of the sight n the one eye and the prevention of the loss of it in the other, that he be relieved from duty at his present station, and be permitted to remain elsewhere under judicious medical treatment for at least thirty days.

J. F. HAMMOND,
*Surgeon, U. S. A.*

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EXHIBIT F.

NEW YORK, *April* 4, 1864.

*To whom it may concern:*

Maj. Charles G. Halpine, assistant adjutant-general, having applied to me for a certificate on which to base his resignation with a claim for pension, I hereby certify that I have attended Major Halpine since last September for *inflammation and opacities of the cornea*, contracted during service in the Department of the South.

When Major Halpine came under my care, on his arrival in September from said department, the sight of his right eye was so impaired as to be useless for purposes of reading or inspection of distant objects. This impairment of vision still remains, and is of a character to form, in my opinion, a cause of permanent disability for military service. Moreover, his left eye is also somewhat impaired by the same disease, and thus both organs remain in an irritable condition from the occasional attacks of acute inflammation on exposure to wind, dust, or extreme sunlight, or prolonged vigils.

In my judgment Major Halpine cannot resume active service without the gravest danger to his remaining vision; and I therefore recommend that his resignation be accepted.

C. R. AGNEW, M. D.

EXHIBIT G.

MEDICAL DIRECTOR'S OFFICE, DEPARTMENT OF THE EAST,
*New York, April* 7, 1864.

I hereby certify that I have carefully examined Maj. Charles G. Halpine, assistant adjutant-general, United States Volunteers, and find that he has amaurosis of the right eye with ulcerations of the cornea. The sight of the right eye is nearly totally lost, and without great care the sight of the left eye may be impaired. From the evidence adduced there is no doubt that the loss of vision in the right eye was caused by disease contracted in the service during the siege of Fort Pulaski, Ga., and service on the Southern coast. Major Halpine is not in condition to perform duty, and I would respectfully recommend that his resignation be accepted.

J. SIMONS,
*Surgeon, U. S. A., Examining Surgeon for Sick and Wounded Officers.*

In transmitting the papers in the pension claim of Mrs. Halpine, the Commissioner of Pensions states as follows:

It is in evidence that the officer died suddenly August 3, 1868, under circumstances which required the holding of an inquest, and it appears that the jury decided that the officer's death was due to "congestion of the brain and spinal cord by the accidental use of chloroform." The theory having been presented that the death cause was traceable to the military service, Dr. Hood, the medical referee of this office, carefully considered the evidence and decided that the officer's death was due to an overdose of chloroform (inhaled vapor), hence the claim has been rejected on the ground that the death cause was not attributable to the service.

From the evidence of the family physician, taken in connection with the other medical testimony in this case, and with the facts shown upon the inquest, your committee are impressed with the belief that General Halpine's death resulted from an overdose of chloroform which he took to alleviate his sufferings resulting from disability received in line of duty. The finding of the inquest was unanimously as follows:

That General Halpine came to his death from congestion of the brain and spinal cord produced by accidental use of chloroform.

As further evidence of the important services of General Halpine, a letter of Admiral Du Pont is hereto appended, marked H.

In view of all the facts in the case, your committee are disposed to attribute the occasion of General Halpine's death to the injuries he received in the service, and therefore report the House bill with recommendation that it be passed.

---

H.

NEAR WILMINGTON, DEL., *January* 8, 1864.

COLONEL: A friend has called my attention to an omission in my official report of June 17 to the Navy Department, to be found in public documents recently published.

I omitted in that letter to state the source of the information which had led me to believe that the rebel iron-clad Atlanta was preparing for a raid and about moving.

This most important fact was sent off by you to the fleet-captain, Commander C. R. P. Rodgers, after you closely interrogated certain deserters just in from Savannah.

I acted instantly on your letter, relieving Capt. John Rodgers from a court-martial, of which he was a member, and ordering him to proceed with the monitor Weehawken in all haste to Warsaw Sound. I sent a similar order to Commander Downes, of the Nahant, then lying in North Edisto, who proceeded also to Warsaw with the utmost dispatch.

So important did I consider the information transmitted by you that I not only acted on it instantly, as above stated, but if I remember rightly I wrote a note to thank you for your prompt action in the matter, but for which very different results might have occurred.

How I committed the oversight not to mention officially this opportune public

service, so valuable to me as the commanding naval officer on the coast, I can only account for by great pressure of business and great haste in order to avail myself of a departing mail.

I seize this opportunity not only to rectify this omission, but to state also how often I had occasion to recognize your intelligent and efficient zeal in conducting the duties and business of your important position in the Department of the South, whenever the military and naval services were blended or had official relations and intercouse.

Taking the greatest pleasure in making these statements,

I am, colonel, very respectfully, your obedient servant,

S. F. DU PONT,
*Rear-Admiral, United States Navy.*

Col. CHARLES G. HALPINE, &c.,
*Headquarters Department of the East, New York.*

O

[ THE SENATE OF THE UNITED STATES.

JANUARY 20, 1885.—Ordered to be printed.

ɛLL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 3663.]

*tee on Pensions, to whom was referred the bill (H. R. 3663)*
*pension to John T. Marshall, have examined the same, and*

are set forth in the report of the Committee on Invalid
the House of Representatives, during the last session, as
ıse Report No. 347):

ıer asks to be placed on the pension rolls on account of disease con-
service, while in the Navy of the United States, in the war of the rebel-
nmittee find that John T. Marshall enlisted in the Navy April 30, 1861,
he was rugged and sound; in July of the same year he was taken sick
and lay sick with fever in the hospitals until the latter part of Sep-
he was discharged, as a result of his exposure and sickness, and from
never recovered. Chronic diarrhea ensued, which has attended him
attacks of from a few days to several months duration, and which have
ired his health and undermined his constitution, forcing him to aban-
—that of following the sea—and take up a trade (shoemaking) adapted
d condition, in the prosecution of which, from frequent attacks of his
ɛurs much lost time. He applied for pension in September, 1880, but
rejected on legal grounds, "No record of alleged disability in the serv-
ity to show origin of same in service and line of duty." Since his dis-
not employed physicians regularly, but has treated himself with simple
ɛh were checking in their nature.
t he has been affected with chronic diarrhea since his discharge, taken
tion with the fact that he was rugged and healthy when he entered the
nes that the said chronic disease since discharge was owing to his ex-
ısequent fever incurred while in service and line of duty. Your com-
ɛe recommend the passage of the accompanying bill.
ɜ from the records of the Navy Department that the claim-
ɛith pneumonia, which, it is stated, had its "origin in line of
was transferred to the New York Naval Hospital where the
's the disease continued until his discharge on account of
n being unfit for service.
vits of two fellow-seamen are also presented, showing the
ɛlaimant in the service and since.
es E. Meade, who has lately treated him, testifies to his con-
about 1880.
examining surgeons at Boston certify three-fourths total
1881, and that disability arose in service.
f all the facts your committee are of the opinion that the ill-
ɜervice was the cause of the present disability of claimant,
ɛe report back the bill, and recommend that it do pass.

RESS, } SENATE. { REPORT.
n. } { No. 1036.

N THE SENATE OF THE UNITED STATES.

JANUARY 20, 1885.—Ordered to be printed.

ELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 4379.]

*ttee on Pensions, to whom was referred the bill (H. R. 4379) lief of Maj. W. W. Frybarger, have examined the same, and*

in this case are stated in the report of the House Commit- lid Pensions (House report No. 1137), made during the last follows:

am W. Frybarger was mustered into the military service of the United t 24, 1861, as captain Third Battery Indiana Light Artillery, being the hat left the State of Indiana for the seat of war in the South. Novem- ne was commissioned as major of the First Indiana Artillery, and was colonel First Indiana Artillery April 25, 1863, and honorably discharged tary service of the United States March 29, 1865.

about the 18th of May, 1862, during the advance on Corinth, Miss., and ing the Indiana artillery, under the special order of Maj. Gen. George assing along the line of divisions in performance of his duties, his horse ened and unmanageable, and he was violently thrown to the ground, e injury of the spine and double rupture.

Pepper, M. D., of Connersville, Ind., testifies that he has been the fam- of William W. Frybarger since 1859, and that he was free from hernia sease prior to his enlistment in the military service of the United States. l home from the army, affiant was called upon to treat him profession- a and spinal affection.

hard, Charles E. Mayer, and Amos Kinder testify that they were mem- ourteenth Indiana Battery, and are acquainted with William W. Fry- vas major of the First Indiana Light Artillery, and that on or about the May, 1862, while near Corinth, Miss., they saw William W. Frybarger from the direction of Major-General Halleck's headquarters toward the the Indiana batteries were at the time, and while in view of affiant was own to the ground from his horse while passing an Illinois regiment.

son testifies that he was assistant surgeon Forty-first Indiana Volun- t in May, 1862, he met William W. Frybarger in company with Governor headquarters of Colonel McCook, and knew him to be in the service. fterwards, while on his way home, affiant met William W. Frybarger on nboat on the Tennessee River, suffering from injuries received in the ce, as affiant believes; he was suffering with pain in the back, and was ated, the result evidently of injury to the spine. Has seen him at short e that time, and has no doubt his present disability is the result of in- d while in the service.

s, M. D., says that he was one of the additional surgeons at the siege uring which period William W. Frybarger was so seriously injured in the by being thrown from his horse that his injuries were of a permanent d might eventually terminate in paralysis of the lower extremities.

D. D. Hall, M. D., of Connersville, Ind., says, July 7, 1862:

"Maj. W. W. Frybarger, of the First Artillery Indiana Volunteers, having applied for a certificate on which to ground an application for leave of absence, I do hereby certify that I have carefully examined this officer, and find that he is entirely unfit for duty, in consequence of an injury received at Corinth about the 24th day of April, 1862, from a fall from his horse, which produced an injury of the spine which still renders him unable for duty; and I further declare my belief that he will not be able to resume his duties in a less period than thirty days. Said officer at this time is not able to travel without seriously endangering his life."

At the expiration of the leave of absence Major Frybarger reported at Indianapolis, Ind., and was advised by Dr. Bobbs, then chief surgeon on duty at that place, to resign, on the ground that he was totally unfit for service in the field. But at the instance of Governor Morton he remained in the service, being, by a special order from the War Department, directed to report to Governor Morton, by whom he was, on the 18th of August, 1862, assigned to staff duty as instructor of artillery and superintendent of the recruiting for that arm of the military service in Indiana.

On the 24th of March, 1876, the name of Major Frybarger was placed on the pension-roll at the rate of $18.75 per month, on account of scrotal hernia and disease of the spine, which was subsequently increased to $25 per month.

S. W. Vance, M. D., of Connersville, Ind., United States pension examining surgeon, who examined Major Frybarger pending his application for pension, reports him laboring under double reducible or ventro-inguinal hernia, the hernia forming two tumors about the size of large hen eggs, and a soreness along the spinal column, especially over the lumbar vertebra.

May 10, 1877, Major Frybarger was examined by Rufus Hammond, M. D., United States examining surgeon, for an increase of pension, who reports double scrotal hernia and injury of the spine, from a fall of his horse, throwing him over his head, upon his back, near Corinth, Miss. There is constant pain in the base of the skull, with tenderness of the spine, and partial paralysis of the right leg, so that he walks with some difficulty.

On the 18th of May, 1880, William W. Frybarger was again examined by S. W. Vance, M. D., of Connersville, Ind., pension examining surgeon, who says:

"This applicant is laboring under a double reducible inguinal hernia. The tumor of the left side is double the size of a small goose egg, while that of the right side is about the size of a hen's egg. He wears a truss upon the right or lesser tumor, which he states gives him the most trouble."

On the 8th of February, 1882, Major Frybarger was examined by Drs. J. S. Beck, J. M. Wessner, and Dunlap, constituting the board of United States pension examining surgeons, at Dayton, Ohio, who report:

"Double hernia (inguinal) complete. Complains of acute pain over almost entire course of dorsal vertebra. No curvature. Enlargement of joints of fingers, both hands; tongue red and somewhat fissured; abdomen enlarged and tympantic over lower portion. Alleges to have frequent and violent attacks. Seems to be entirely broken down and used up, although able to go about and wait upon himself."

On the 3d of May, 1882, the application for additional increase was rejected by the Pension Office on the ground that claimant was receiving the full amount of pension to which he is entitled under the law.

Your committee find, from the voluminous evidence in this case, that Major Frybarger is totally disabled; and in view of the long service rendered, and the long and painful suffering experienced as a result of the injuries received in the line of his duty, therefore recommend that the bill be amended by striking out the word "fifty" in line 5, and inserting "forty," and when so amended that the bill do pass.

Your committee recommend the passage of the bill, in view of the very great disability and sufferings of this pensioner.

C

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1037.

IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1885.—Ordered to be printed.

Mr. VAN WYCK, from the Committee on Pensions, submitted the following

# REPORT:

*The Committee on Pensions, to whom was referred the bill (H. R. 5776) granting a pension to Louis D. Petty, have examined the same, and report:*

That Louis D. Petty enlisted in Company E, Eighth Missouri Volunteer Cavalry, on the 12th day of July, 1862, at Webster County, Missouri, and was a remarkably stout, healthy, able-bodied man.

That on or about the 1st of September, 1863, in Arkansas, while in line of duty, he was shot by the enemy and wounded in two places—one wound below left hip, the other just under left shoulder-blade. These facts, and also the fact that he was carried to and remained in hospital under treatment for several weeks, are sworn to by two of his comrades, the second lieutenant of his company, the lieutenant-colonel commanding the regiment, the surgeon of the regiment, and others; all of whom testify they know the same of their own personal knowledge. Petty afterwards remained in service, but was always put on light duty, being unfit for any other kind.

When discharged he went back to his home in Webster County, Missouri, and his neighbors, whose reliability is established beyond question, swear they saw him two or three times a week, and that frequently his wounds rise and break, and sometimes come near killing him, and that he is unable to make a living by work.

Dr. N. H. Hampton, an old and experienced physician and surgeon of more than thirty years' experience, swears that he examined said Petty; that the wound under left shoulder-blade is serious, and in moving left hand produces a grating sound; that there is a defect in left hip from ball entering upper part of glutæus maximus muscle and lodging near head of femur, rendering him unable to perform more than half manual labor.

E. B. Brown, examining surgeon at Ozark, Mo., in 1880, and I. H. Fulbright, examining surgeon at same place in 1881, describe the wounds in a similar manner.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1038.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1885.—Ordered to be printed.

Mr. VAN WYCK, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 2399.]

*The Committee on Pensions, to whom was referred the bill (H. R. 2399) granting a pension to Clarissa McKee, have examined the same, and report:*

That William McKee, husband of Clarissa McKee, was a private in Second Regiment of District of Columbia Volunteers, and discharged from the service for disability, because of chronic rheumatism and asthma.

Doctor Cross testifies that he treated the soldier for asthma and chronic rheumatism, from about December 1, 1862, to about December 1, 1870; also states that he came home debilitated and generally broken down in health. He never after acquired good health. Said soldier's condition was such that he had no power or vital force to resist disease after leaving the Army. Doctor Cross again testifies, January 30, 1873, that when the soldier returned home from the Army, his physical condition was such that he was unable to perform hard labor, and the disease which he contracted in the military service caused his strength to fail more every day up to December 1, 1870, and, in his opinion, resulted in his death. The evidence on file in the Pension Office shows the fact of his death. The certificate of examining surgeon shows that Doctor Cross, who makes the affidavit as to sickness and cause of death, is both competent and reliable.

Statement of George O. Halsey, of Newark, says that the widow is in poor health; and that of William B. Guild, that she is a poor, sickly woman.

Your committee are of the opinion that William McKee contracted disease while in the service that caused his death, and that the widow's health and pecuniary condition are such that she should have relief.

They therefore recommend the passage of bill H. R. 2399, which places her name upon the pension-rolls, subject to the provisions and limitations of the pension laws.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1039.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 6927.]

*The Committee on Pensions, to which was referred the bill (H. R. 6927) granting a pension to Merit M. Oakley, has examined the same, and reports:*

That the following report, made to the House of Representatives by the Committee on Invalid Pensions of that body, fairly presents the facts of this case as they appear in the record and proofs transmitted to your committee by the Commissioner of Pensions:

*The Committee on Invalid Pensions, to whom was referred the bill H. R. 458, have had the same under consideration, and make the following report:*

Merit M. Oakley enlisted as a private in Company K. Sixth Regiment Iowa Cavalry, on the 4th day of October, 1862, and was discharged October 17, 1865. In his original application, filed in the Pension Office, he alleges disability, caused by injury to back and spine in consequence of being thrown from his horse, which was shot under him at the battle of White Stone Hill, Dak., on the 3d day of September, 1863, the edge of the back part of the saddle striking him in the small of the back upon the falling of the horse, and injuring his back and spine. Claimant was granted a pension by the Pension Office, at the rate of $8 a month, in May, 1874.

Pensioner was dropped from the rolls on the ground that pensioner's disability was incurred before he entered the service. The special agent sent out, and upon whose report the claimant was dropped, presented a number of affidavits, in which there was little or no positive evidence of any injury before entering the service, except hearsay. The allegation concerning claimant's prior disability was that he had been injured before entering the service by reason of a saw-head falling upon him and injuring his head and back. Yet, although the special examiner took the evidence of the person owning the saw-mill, where the accident was said to have occurred, and that of many others, none of the witnesses have personal knowledge of such an occurrence, and claimant testifies in the most unequivocal manner that he never received any such injury, and was well and able-bodied before entering the service, as also numerous other witnesses. Capt. John Logan, commander of his company, testifies substantially that in the engagement named his horse was shot under him, and that he was injured as claimed. Thomas L. Bardwell, assistant surgeon of his regiment, testifies that he prescribed for him for injuries to the spine received in this engagement of the same day, giving him liniment to apply to the injured region. These and numerous other witnesses corroborate the statement that the injury was received as claimed by applicant. Of the claimant's disability at the present time there can be no question. Examining Surgeon W. M. Skinner rates his disability as total of the third degree. Claimant is in very indigent circumstances, and is, with his wife, as your committee is advised, dependent upon a married daughter for support, who is also in reduced circumstances. Your committee, therefore, recommend that claimant be placed upon the pension-rolls at the rate of $8 per month, to take effect from and after the passage of this act. Your committee herewith present a substitute for the original bill, H. R. 458, and recommend its passage.

Since this report was presented to the House, and since the passage of the bill by that body, Mr. Oakley has presented additional evidence in support of his case, consisting of the affidavits of the assistant surgeon and the bugler of the regiment, the first sergeant of the company of which he was a member, and of his family physician, all of which definitely support the report of the said House committee.

Your committee therefore reports the bill to the Senate, with a recommendation that it do pass.

O

# IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 1790.]

*The Committee on Pensions, to which was referred the bill (S. 1790) granting an increase of pension to Edgar L. Dutton, has examined the same, and reports:*

That the Commissioner of Pensions, in his letter transmitting the papers in this case to the committee, makes the following remarks concerning it, viz:

The soldier was pensioned March 1, 1872, for hernia of right side, at $4 per month, from May 13, 1865, the date of his discharge; at $8 per month from April 16, 1874. His claim for increase on account of heart disease is inadmissible, because there is no record or medical testimony showing existence of alleged disability in the service, nor medical or other satisfactory testimony showing existence at and since discharge.

The claimant testified in his application for increase that he could not furnish the medical testimony required as to existence of the disability from heart disease while in the service, because it was contracted while absent from his regiment, and states in an explanatory affidavit filed with the Commissioner of Pensions that—

The disease of the heart, upon which his claim for increase is based, was incurred in the service while a prisoner at Andersonville, Ga., and Florence, S. C., between July 19, 1864, when he was taken prisoner at Peach Tree Creek, in front of Atlanta, Ga., and the middle of December, 1864, when he, with about ten thousand other sick and wounded prisoners, was released on special parole, and never afterwards returned to his regiment, and was discharged at Indianapolis, Ind., May 11, 1865.

He further says that, even though he had been returned to his regiment, it would still be impossible for him to furnish the testimony of the surgeon or assistant surgeon of his regiment as to his condition subsequent to his release on parole as a prisoner, for the reason that both of those officers are dead. But he furnishes evidence establishing beyond all reasonable doubt that at the time of his enlistment he was not only free from heart disease but was a sound and able-bodied man, and other testimony in the case supports the declaration of the soldier that his disease of the heart was contracted as he alleges it was, and that it has continued since the close of the war to the present time.

He was examined by a board of examining surgeons in April, 1879, and again in September, 1880, and the reports in both instances rate him total for hernia and total for heart disease, and certify that: "We

find his disability, as described above, to be equal to and entitling him to $16."

The committee therefore reports the bill to the Senate with an amendment, striking out the word "eighteen," in line 7, and inserting in lieu thereof the word "sixteen," so that the rate provided for the pension shall correspond with that reported by the board of examining surgeons, and with this amendment the committee recommends the passage of the bill.

ONGRESS, } SENATE. { REPORT
Session. } { No. 1041.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1885.—Ordered to be printed.

'ILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 320.]

*ommittee on Pensions, to which was referred the bill (H. R. 320) ing a pension to Kate Amann, has examined the same, and reports:*

t the Committee on Invalid Pensions of the House of Represent- reported this case to that body as follows, viz:

*nmittee on Invalid Pensions, to whom was referred the bill (H. R. 320) granting a pension to Kate Amann, having considered the evidence, beg leave to report:*

Kate Amann is the widow of Philip Amann, who was a private in Company D, y-fifth Regiment Pennsylvania Volunteers, and who was discharged from the February 25, 1863, on account of two gunshot wounds received at the second an battle, August 30, 1862, one ball having passed through the right leg, the hrough the right foot. That he was pensioned on account of said wounds to om the time of his discharge and continued to receive a pension until the time death, November 15, 1880, which occurred in the following manner: The evi- hows the fact that while engaged with others working in a stone-yard the der- ed by them for moving and hoisting stone fell on the said Amann, crushing death. This accident occurred through no fault nor by any negligence on the the said Amann. And in the opinion of your committee, had it not been for his d condition caused by his wounds, he would have been enabled to escape the which resulted in his death; that those who were engaged with him at the his death and who were exposed to the danger in as great a degree as the said was, did escape death by reason of the fact that they possessed the full use of mbs. Your committee further find that the said Amann was a sober and indus- nan, of good moral character.

the claimant, Kate Amann, is in reduced circumstances, supporting herself and by washing and such other hard labor as she can get to do.

onsideration of all the facts, the committee recommend the passage of the ac- ıying bill.

Commissioner of Pensions, in his letter transmitting the papers case of Philip Amann, says:

soldier was pensioned in 1864 for gunshot wound of right leg and foot, at $2 onth from February 25, 1863, the date of his discharge. The records of this ail to show that widow's claim has ever been filed.

rate allowed the soldier would not seem to indicate the degree of lity which the committee could give the character of an important butory element in the cause of his death. In 1874 he was exam- or increase, but the examining surgeons still rated it at $2 per ı. In 1879 he was again examined and reported at $3 per month, ıis was not approved by the Pension Office. And it does not seem committee to be a case in which the disability of the soldier so ly and materially contributed to his death as to justify a favor-

able report of the bill. No evidence has been presented to the committee except that contained in the case made up by the soldier for the consideration of the Pension Office. Of course, this does not disclose his physical condition at the time when the accident occurred to him, as stated in the report above quoted, and as the committee has only the record from the pension files to guide it in making up its judgment, it can but report the bill adversely, and recommend that it be indefinitely postponed.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1042.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 2535.]

*The Committee on Pensions, to whom was referred the bill (S. 2535) granting a pension to Mrs. Julia Hartley, respectfully report as follows:*

The only papers submitted in this case are a petition from Mrs. Hartley asking a pension because of the long and faithful services of her husband, Capt. John Hartley, during the rebellion and since, and letters from Major-General Hancock, Brigadier-General Terry, and Colonel Otis, of the Twentieth Infantry, expressing their appreciation of Captain Hartley's services in the Army and of his worth as an officer. Mrs. Hartley states in her petition that her husband served in the Volunteer Army from 1862 until 1865, and was in 1866 captain in the Twenty-second Regiment, United States Infantry, serving in that capacity until 1882, when he resigned his commission, and that he died in 1883. It is not alleged that the soldier's death was due to his military service, or that he was in any way disabled therein, and, as he did not die in the service, your committee, on the evidence submitted, would not be justified in asking the allowance of a pension.

We therefore recommend that the bill be indefinitely postponed.

O

N THE SENATE OF THE UNITED STATES.

JANUARY 20, 1885.—Ordered to be printed.

ɔM, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 5951.]

*ittee on Pensions, to whom was referred the bill (H. R. 5951) a pension to Abel J. Lewis, have examined the same, and re-*

an examination of the facts in the case they are unable to
he bill ought to pass. Your committee adopt the report of the
nmittee on Pensions as embodying the general facts, but can-
at the same conclusion arrived at by the House report in view
:t that three examining boards appointed by the Pension
ɔner have decided that the claimant's disability could not be
:o the wound received in the service.
mmittee therefore report adversely to the passage of the bill
ıat it be indefinitely postponed.
ɔrt of the House committee as to the facts is as follows:

ɔr claims a pension on account of disability caused by shell wound to
eived in the battle of Resaca, Ga. While the claim has not been posi-
ɜd at the Pension Office, still they are unable to find positive and satis-
ɜnce that his disability arises from the cause alleged. He has had three
s by three different examining boards; a disability of one-half is found to
ne are able to find that the contusion of the abdomen is the cause of his
The soldier alleges that near Resaca, Ga., May 15, 1864, he was wounded
' shell in the right thigh, and at the same time and place was injured by
abdomen; that he was sent from field of battle to Cumberland Hospital,
, Tenn., where he remained two months. His statement is confirmed by
djutant-General's Office, and by the affidavits of his captain, Robert J.
eutenant, John Bowen.
ill, of Sioux Falls, whose credibility is marked good by the Pension Office,
he has known claimant intimately from 1865 to 1871; saw him constantly,
.ll that time claimant suffered from an injury in his right side, so severely
t he gave up work and remained at home several days at a time.
ı E. Ferguson, of Bangor, Mich., testifies that he has known claimant since
s treated him for disability in the right side caused by wound received in
ıis opinion is fully one-half disabled; that he is wholly unable to do heavy
r, and at times to do any labor at all.
nony is marked good, first class.
·is, Albert B. Taft, John Ray, all testify that they have known claimant
nd that he is continuously suffering from disability in right side, caused
ıt of shell at Resaca, Ga., and in their opinion he is one-half disabled.
ɜon, in affidavit of January 14, 1884, says that he attended claimant No-
d 9, 1874, and in June, 1877, from 12th to 17th, and has prescribed for
hat claimant has been troubled with chronic constipation ever since he
ıim in 1874, with occasional attacks of colic, always located in right iliac
t iliac cæcal valve, so severe at times as to require hypodermic injection

IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1885.—Ordered to be printed.

OM, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 2398.]

*ittee on Pensions, to whom was referred the bill (S. 2398) grant-*
*nsion to Cyrus Reeser, having considered the same, respectfully*
*s follows:*

ords show that Cyrus Reeser served as a private in Company
irst Regiment Illinois Infantry, from January 28, 1862, to De-
1862, when he was discharged for disability. His certificate
ation for discharge shows that he was then permanently dis-
"deep-seated varicose veins of the left leg," his limb being
eless. This disability has continued and increased to such an
it he is unable to walk any distance without a crutch. In con-
he has been unable to support himself, and has for the past
ars been a pauper and a charge on the county. In 1876 he ap-
a pension, and in 1883 his claim was rejected on the ground
lisability existed prior to enlistment. The surgeon who exam-
in 1881 pronounced his "a most remarkable case," and rated
otally disabled. He reported that the whole limb, from the
the thigh to below the calf of the leg, was apparently filled
blood, which felt like a bladder or bag filled with water, the
eing filled with varicose veins.
ecial examiner who was sent to Reeser's home to investigate
ion of soundness at enlistment, says in his report:
imant is an ignorant but honest man, well spoken of by all his
as a man anxious to work to support himself and mother, but his
is such that he can do but very little work. I know from per-
ervation that claimant is very badly disabled, and I have every
believe that he incurred the disability in service and line of

s own explanation of the origin of the disability was that he
ctly sound and able for duty up to June, 1862, when his left
enced swelling below the knee; that he believed the swelling
ed by exposure and hard marching; that his blankets had been
d he had none from the time the regiment left Saint Louis
y reached Pittsburg Landing, Tenn.; that he suffered very
n the cold; that he was in the battle of Shiloh, and got very
g that fight; and that his leg began to swell when they started
arch towards Corinth.
ther and sister, both of good reputation, testified that he was
d able-bodied when he enlisted; that prior to enlistment he

had never been lame or had varicose veins or swelling of the leg. Two neighbors gave similar testimony.

Subsequently another examiner was sent to Winchester, Ill., where Reeser resided during boyhood, and secured testimony from a number of citizens who had known him as a boy, to the effect that he was not very strong or healthy in his youth. Some of the witnesses thought he had been lame, and one of them raised the presumption that the disability had been inherited from the soldier's father. This examiner recommended the rejection of the claim, and on the strength of his report it was rejected by the Department.

The only bar to the allowance of a pension in the regular way in this case is the doubt as to the soldier's soundness at enlistment. Inasmuch, however, as his services were accepted during the first part of the war, when only sound men were accepted, as a rule, and in view of his pitiable and helpless physical condition, which must have been seriously aggravated by his military service, even if it was not occasioned by it, your committee feel justified in regarding this as an exceptional case, and the soldier deserving of the benefits of the pension laws.

We therefore recommend the passage of the bill.

H CONGRESS, 2d Session. | SENATE. | REPORT No. 1045.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1885.—Ordered to be printed.

. CULLOM, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4059.]

*Committee on Pensions, to whom was referred the bill (H. R. 4059) ranting a pension to Isaac Demaranville, respectfully report as follows:*

That the material facts in this case appear to be correctly set forth the report of the House Committee on Invalid Pensions, which is eby adopted as the report of your committee, with the recommenda- n that the bill do pass, as follows:

'e find that Isaac Demaranville enlisted August 13, 1862, in the Ninety-third Illi- Volunteers. He makes affidavit that at the battle of Missionary Ridge, Novem- 25, 1863, he received a gunshot wound in the left leg, and was taken prisoner and fined at Belle Island, and then taken to Andersonville prison, where he remained il February 26, 1865, when he was paroled. He claims that while in prison at ersonville he received a severe injury to the back by slipping while carrying a log. The case was rejected by the Pension Office because he could not furnish lence of his comrades. The report of the Adjutant-General is that he was miss- in an action at Tunnel Hill, in front of Chickamauga, Ga., November 25, 1863. regiment was in action at that place on that date. His name was dropped from sequent muster-rolls until those for March and April, 1865, take his name up, with ilar remarks to that stated above. He was mustered out at Springfield, Ill., June 24, , to date May 29, 1865. Prisoner-of-war records show him captured at Missionary ge, Ga., November 25, 1863, paroled at N. E. Ferry, N. C., February 26, 1865. Cer- ate of examining surgeon, January 21, 1878, gives description of the wound, and states that he cannot fully satisfy himself as to origin of injury to the back. r committee would respectfully submit that fifteen months' incarceration in that on pen at Andersonville ought to exempt him from the requirement to furnish her evidence, and would, therefore, recommend the passage of the bill.

O

ONGRESS, } SENATE. { REPORT
ession. } { No. 1046.

IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1885.—Ordered to be printed.

ECK, from the Committee on Finance, submitted the following

# REPORT:

[To accompany bill S. 2529.]

Committee on Finance, to whom was referred the bill (S. 2529) relief of James M. Lobban, recommend the passage of the bill as d for the reasons stated in the letters and affidavits accompany-

G. B. Dandy states the nature of the original draft as follows:

EXHIBIT A.

F NEBRASKA,
*Douglas County, ss:*

G. B. Dandy, Q. M., U. S. A., chief quartermaster Department of the Platte, Nebr., being duly sworn, deposes and says that on April 26th, 1884, he caused wn and did sign his official check, No. 20, to order of James M. Lobban for sand six hundred eight ($4,608) dollars and fifty (50) cents, on the Stock National Bank, at Cheyenne, Wyoming Territory—this bank being a desig- ited States depository—in payment of voucher accounts, as follows:

| | |
|---|---|
| ushels charcoal | $221 00 |
| wood | 4,387 50 |
| | 4,608 50 |

l at Fort McKinney, W. T., being my vouchers Nos. 5 and 6, Abstract A, money for April, 1884; and that he now holds the receipt of James M. Lobban, dated 1884, for the before described check.

r, he deposes and says that on monthly statement of account, as furnished tock Growers' Natl. Bank, Cheyenne, W. T., dated October 31st, 1884, the scribed check is outstanding and unpaid.

r the deponent sayeth not.

G. B. DANDY,
*Maj. and Qm., U. S. A., Chief Qm. Dept. of the Platte.*

and subscribed to before me this eighteenth day of November, 1884, at Omaha, a.

]

JEAN SCHONS,
*Notary Public.*

proof of its due transmission by mail from the Bank of Stebbins, & Co., at Buffalo, Wyo., to the Stock Growers' National Bank, yenne, Wyo., and of its loss on the way, is ample, as shown by davits of James M. Lobban and Charles M. White, of Buffalo; J. Parshall, assistant cashier of the banking house of M. E. Co., Cheyenne; of Henry G. Hay, cashier of the Stock Growers' al Bank, at Cheyenne, where it was payable.

he facts show that this is a proper case for relief, and as the

accounts of Major Dandy cannot be fully settled till this matter is closed, and as the Stock Growers' Bank at Cheyenne is no longer a national depository, its accounts as such having been transferred to Omaha, the prompt closing of this matter, by the issuing of a duplicate check as proposed, is a matter of some importance. There can be no objection, in the opinion of the committee, to the passage of the bill as amended.

ONGRESS, } SENATE. { REPORT
lession. } { No. 1047.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1885.—Ordered to be printed.

'IKE, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill H. R. 4681.]

*nmittee on Claims, to whom was referred the bill (H. R. 4681) for elief of Yost Harbaugh, having considered the same, beg leave to nt the following report:*

in September, 1876, Louis Harbaugh, brother of the claimant, nessenger in the Third Auditor's Office of the Treasury Depart- vith the pay of $70 per month; that at this time the claimant was enger in the Government Printing Office; that by an arrange- etween Louis Harbaugh and Hon. C. F. Conant, Acting Secre- e said Louis Harbaugh resigned his position as messenger in the uditor's Office, to take effect on the 10th of October then next, the nant agreeing to appoint the claimant in his stead at that time; e claimant, acting upon this agreement, gave up his place as ger in the Government Printing Office, and on the 10th of Octo- mmenced work as messenger in the place of his brother, and so ed for one month thereafter; that he had spent some time pre- hereto under the instruction of his brother in learning the duties iew employment; that the claimant for that time performed the of said employment with diligence and ability; that it was after- ascertained that the claimant could not be appointed to the place id for the reasons that the quota of the District and of Maryland und to be full, and for that reason he was dismissed from that , and that for this month's service there was found to be no legal for making payment.

these facts are derived from the statements of the claimant's ; William S. Stetson, chief of claims division in the Treasury, race Austin, the Third Auditor.

committee think that the claim is just, and they therefore report ompanying bill and recommend its passage.

NGRESS, } SENATE. { REPORT
sion. } { No. 1048.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1885.—Ordered to be printed.

ISON, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill S. 568.]

*mittee on Claims, to whom was referred the bill (S. 568) for the of John B. Davis, having examined the same, make the following*

his claim has been repeatedly examined and favorably reported committees of the Senate and House. At the third session of y-fifth Congress it was considered and favorably reported by te Committee on Post-Offices and Post-Roads. At the second f the Forty-sixth Congress, it was again favorably reported by committee. At the third session of the Forty-sixth Congress orably reported by the House Committee on the Post-Office and ds. At the first session of the Forty-seventh Congress it was reported by the Senate Committee on Claims (Report No. 202). he first session of the Forty-eighth Congress the House Com- Claims reported upon it favorably.

ets of the case are clearly and correctly set forth in Senate Re- 737, third session of Forty-fifth Congress, which your com- lopt as follows:

*ittee on Post-Offices and Post-Roads, to whom was referred the bill (S. 1037) elief of John B. Davis, having had the same under consideration, ask leave to*

the year 1867 John B. Davis was a contractor with the Post-Office Depart- he transportation of the mails by steamers from the mouth of White River port, in Arkansas.

l-matter for the central and western portions of the State of Arkansas, and thern part of Texas, was chiefly collected and concentrated at Memphis, e of Tennessee, carried by a line of steamers to the mouth of White River, hat point by petitioner's steam vessels to Duvall's Bluff on the White River, by rail to Little Rock and other points west.

dules for arrivals and departures of the vessels were so arranged, and by ith the Post-Office Department, that the mails from Memphis and the west e mouth of White River ten or twelve hours after the petitioner's boats oint, thus causing three or four days' delay in the entire mail service of all t of Duvall's Bluff.

mplaint was made by the press and people of Arkansas and Texas on account lays. In this state of affairs a special agent of the Post-Office Department r. Davis to extend his service and carry all the Arkansas mails through phis to the mouth of White River. This service was performed once each the 1st July, 1867, until the 31st day of the same month, and from the 1st 67, until the 31st March, 1868, twice each week, the petitioner having pur- ther steamer to enable him to do this work.

The Post-Office Department recognized this service, and in the month of May, 1868, paid Mr. Davis for the weekly service at the rate of $5,000 per annum, and for the semi-weekly at the rate of $10,000 per annum.

Mr. Davis continued to carry these mails semi-weekly until the 21st March, 1868, but has never been paid therefor.

In reply to a communication addressed by the committee to the Postmaster-General, asking information as to the nature of the service rendered, and the authority under which Mr. Davis acted, the Second Assistant Postmaster-General, on the 29th May, 1878, stated "*that the certificate of the postmaster at Memphis shows the service to have been performed*" from the 1st April, 1868, to the 21st March, 1868, "*but no payment was made after 31st March, 1868, as no satisfactory evidence of proper authority for the performance of the same was presented to this office until after the time had elapsed within which the appropriation for those years could have been used.*"

And in a letter dated 13th June, 1878, the same officer says that his predecessor "deemed the authority from the special agent for the service was exhausted when" payment was made to the 31st March, 1868, and therefore declined further recognition of it.

The committee is convinced that a valuable service was rendered by Mr. Davis, and with the knowledge of the Post-Office Department, and that some compensation should be made to him; but the committee has no means of ascertaining all the facts connected with these transactions, nor is it able to determine what would be a reasonable compensation.

Since that time the Second Assistant Postmaster-General, in a letter addressed to the attorney for the claimant, states that "should the contractor be paid for service between Memphis and the mouth of White River at the same rate as paid him for the service within the route under contract, the compensation would be at the rate of $5,837.83 per annum," and, according to this estimate, there should be paid to the claimant the sum of $10,943.16.

The committee are of opinion that the rate of compensation is reasonable, and recommend the payment of said sum and the passage of the accompanying bill as a substitute for the bill referred.

The bill thus recommended was identical with that under consideration, directing that Davis should be paid the sum of $10,943.16, in full payment for transporting the United States mails between Memphis, Tenn., and the mouth of the White River, Arkansas, and from thence to Duvall's Bluff, in Arkansas, in the years 1868, 1869, and 1870.

Your committee believe that this conclusion reaches the merits of the case, and report the bill back to the Senate with the recommendation that it be passed.

O

CONGRESS, } SENATE. { REPORT
Session. } { No. 1049.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1885.—Ordered to be printed.

ACKSON, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill S. 523.]

*Committee on Claims, to whom was referred the bill (S. 523) for the ef of Juliet Leef, widow, and the heirs of Henry Leef, deceased, owner the bark Mary Teresa, illegally seized by Alexander H. Tyler, consul the United States at Bahia, Brazil, have examined the same, and respect- ly report:*

at this claim was carefully investigated and adversely reported by the Senate Committee on Claims at the second session of the -sixth Congress. All the material facts of the case are correctly rth in the views then submitted by a minority of the committee, lows:

t the history and character of this claim, as appears from the memorial and accompanying the same, are as follows, viz:
t this same bark, Mary Teresa, was a vessel of foreign build, having been built deaux in the year 1835, and was navigated as a French vessel under the name loz Manuela, by B. C. Collos, master, &c., and while bearing the name of Veloz la, and mastered by B. C. Collos, and navigated as a French bark or vessel on ge from Philadelphia, Pa., to Baltimore, Md., in the United States, she sus- very considerable damage in the hull and loss of spars, sails, and rigging; so so that, after a careful survey and examination by competent surveyors, &c., s condemned as unseaworthy, and by them directed to be sold for account of it might concern; which was accordingly done at public auction, in the said Baltimore, on the 23d day of June, 1847, by Robert R. Lenmons & Co., duly ssioned and qualified auctioneers in said city, and by and with the consent and al of the French consul at Philadelphia and B. C. Collos, master, &c.; that d public sale of the said French bark Veloz Manuela, of Bordeaux, Joseph , jr., being the highest and last bidder, became the purchaser for the consid- and sum of $950; upon the payment of which said sum the said bark Veloz la was delivered to the said Daiger, jr., a citizen of the United States, to- with a bill of sale from the said Collos, duly executed, delivered, and acknowl- on the said 23d day of June, 1847; all of which will more fully appear from a f the minutes of the French consul at Baltimore and the bill of sale of the said , master, &c., and with the papers marked S; that the said Joseph Daiger, jr., rchaser aforesaid, and sole owner of the said French bark or vessel called Veloz la, of the burthen of two hundred and two $\frac{8}{100}$ French tons, in consideration sum of fifteen hundred dollars, lawful money of the United States, to him in said on 19th day of July, 1847, by bill of sale in writing, sold and conveyed the rk Veloz Manuela to Henry Leef, in his lifetime, but since deceased, at the citizen of the city of Baltimore, in the State of Maryland; and the said bill of s duly and properly executed and acknowledged by the said Daiger, and de- to the said Leef; that the said Daiger and Leef were both shown in and upon d bill of sale of Daiger to Leef to be citizens of the United States, as it will ppear by reference thereto, for this and all needful purposes of this report, said sale being marked D and S, and with the papers.

It appears from a letter of Robert J. Walker, then the Secretary of the Treasury of the United States, bearing date the 15th day of July, 1847, being a point of time between the sale of the French bark Veloz Manuela to Joseph Daiger, jr., and the sale of the same vessel by said Daiger to the said Henry Leef, that he, the said Leef, as it is fair to presume, looking to the purchase, navigation, and resale of the said vessel, but dependent upon the fact whether the same could be navigated and sent to a foreign port for sale, addressing a letter of inquiry to Secretary Walker, in substance (as quoted by him, Walker, in speaking of the said vessel Veloz Manuela) as follows:

"What documents is she entitled to as the property of an American citizen, to represent her in a foreign port, and in the absence of a *register?* What claim would she have on the respect of foreign Governments and on the *protection* of the *representation* of the United States Government in foreign ports? Also, on what terms merchandise can be imported into the United States by her?"

In reply, Secretary Walker said:

"I have to inform you that this being a foreign-built vessel she cannot receive papers of any description *under* the *register* or licensing laws of the United States, as the fact of her being at this time the property of a citizen of the United States gives her no American character under the laws referred to. As to her treatment in foreign ports, the consul of the country presiding at your port, to which it is proposed to send her, can doubtless afford you information on this point. If this vessel enters any port in the United States coming from a foreign port, without having papers issued by some foreign Government whose vessels are placed on equal footing by law or treaty with vessels of the United States, said vessel would be liable to the payment of discriminating duties on her tonnage and cargo."

All of which appear in said letter of said Secretary, marked Walker, and here referred to.

It seems from the papers on file with this application to Congress for settlement and payment, that in this character of vessel and ownership, the owner wishing to send her to a foreign port for sale, that while he cannot have her registered or licensed, yet the owner may apply to the collector of customs at the port where the vessel is, and upon his (own) request the said collector shall record the bill of sale in the books of the custom-house, and indorse the fact upon the bill of sale and return the same to the owner, which, when done, is *prima facie* evidence of the ownership and nationality of the vessel, and entitled her to bear the flag and receive the protection of the United States, which appears to have been done in this case; but that the right of such vessel to engage in foreign waters depends on the *lex loci* which from the papers the said Leef had obtained from the Brazilian consul at Baltimore and Brazilian ports the proper papers or documents to do so. Thus it appears the said Leef, before the date of his bill of sale of the said bark Veloz Manuela, had taken the precaution to ascertain those facts, and, as it is fair to presume, acted upon them, and so relying, purchased the said French bark, repaired her at considerable cost and expense with the view of sending her to foreign ports for sale, and also, by the permission of foreign consuls, to send her into their waters and ports with certain articles of trade.

To this end, after the necessary repairs being done and the said vessel rendered seaworthy, the said Leef entered into shipping articles with J. M. Cook as captain, and William J. Woodly and others as crew of said vessel or bark, by dropping the name of Volez Manuela and taking the name of Mary Teresa, of Baltimore, which will appear from said agreement, dated August the 16th to the 25th, 1847, which said articles are here referred to and marked E. The said vessel Mary Teresa, formerly Veloz Manuela, having placed certain cargoes on board at the port of Baltimore, her captain and master, the said J. M. Cook, delivered and placed with the collector of the district of Baltimore a report and manifest of the cargo at said port of Baltimore on board, and bound from said port of Baltimore to Port Walthall, Va., bearing date the 27th day of August, 1847, as appears from manifest marked M, which is here referred to. That on the 30th day of August, 1847, to the end of selling said bark Mary Teresa and her cargo, and in all things control and dispose of the same, the said Henry Leef, by his power of attorney in writing of that date, constituted and appointed one John McKee supercargo thereof, and placed him in charge of the said bark and cargo, which will more fully appear from said power of attorney with American and Brazilian certificates, and here referred to and marked P. That, being thus purchased, recorded, indorsed, reported, refitted, ladened, officered, and manned, the said Mary Teresa regularly cleared for the port at Richmond, Va., and there taking on a further cargo of flour, cleared said port of Richmond, Va., on the 9th day of September, 1847, and bound for Pernambuco, as appears from the certificates of the collector at that port (Richmond) and the Brazilian consul at Richmond, Va., and marked A and B. Under these proceedings the said Mary Teresa, navigated by said captain and crew, reached Pernambuco safely and unmolested on the 16th November, 1847, and was certified by the United States consul at that port that the said vessel Mary Teresa was navigated according to the laws of the United States, as appears from his certificate of that date, and with the papers, marked C and here referred to. Also the

certificate of the American consul at the port of Pernambuco that Henry Leef was the owner of said vessel, bearing date 16th November, 1847, which is likewise referred to and marked L.

Failing to dispose of said vessel and all of her cargo at Pernambuco, she cleared said port for Bahia, as a better market, on the 17th day of November, 1847, as will appear from the certificate of the collector of that port, and of that date, and with the papers, and marked F and here referred to.

Upon the said Mary Teresa reaching the port of Bahia, which was between the 16th of November, the day she cleared the port of Pernambuco, and the 24th day of November, 1847, to wit, on the 21st November, 1847, and reporting her arrival to the American consul, Alexander H. Tyler, at that port, and furnishing him, the said Tyler, as such consul, with her navigating papers from and inclusive of those from the ports of Baltimore, Richmond, and Pernambuco, and including bill of sale with indorsements, and all the papers of the captain, crew, and supercargo, manifests, clearances, &c., he, the said Tyler, consul aforesaid, then and there, instead of offering the said Mary Teresa, her owner, supercargo, captain, crew, and cargo, the protection to which she was entitled under the laws and flag of the United States, which was his duty to do, seized said vessel, Mary Teresa, and took coercive possession of said vessel and cargo, declaring that she, the said Mary Teresa, should have been furnished with an American register and certified crew list; and in the absence of those papers, he, the said Tyler, pronounced her, the said Mary Teresa, to be confiscated to the Government of the United States, and this done by him as the consul of and in the name and for the use of the United States, demanding, taking, and receiving, and possessing himself with all the papers and documents of, belonging to, and concerning the said vessel, owner, captain, crew, and supercargo, and cargo; all and more of which will appear in the papers herewith filed, and here referred to and marked G, being a list of some of the papers and documents belonging to said vessel, and dated 24th November, 1847.

It appears that the supercargo had sold upon reaching or while at Bahia the said bark Mary Teresa to a citizen of Montevideo, and that the consul residing at Bahia had received orders from the minister of his Government, residing at Rio de Janeiro, to give her the flag of that country, whereupon the said Tyler, as consul aforesaid, intercepted and prevented the consummation of said sale by notifying the consul at Bahia that the vessel Mary Teresa could not be sold or otherwise disposed of without presenting a paper from *him dated after that date*, as will appear from his letter to said consul, dated 24th of December, 1847, marked T, and here referred to.

The said Tyler, consul as aforesaid, on the 3d of December, 1847, wrote to David Tod, minister at Rio de Janeiro, for suggestion and advice as to his conduct in the matter of the Mary Teresa, stating that the supercargo wished to carry said vessel to that port. Minister Tod, by letter dated the 11th of December, 1847, informed the said Tyler that the case was new to him, but that he would examine the matter, but advised the said Tyler to suffer the vessel to come on to that port, Rio de Janeiro, and that he (Tod) would confer with the consul at that port as to the proper course to pursue with said vessel.

On the 19th January, 1848, John McKee, supercargo, addressed a letter to the said Tyler, in which is recited the facts and circumstances of the seizure of the vessel and the conduct of the said Tyler, as consul of the United States, and that he had *abandoned* said vessel to him as such consul, with notification that he, owner, and crew *protested against his* (Tyler's) *action* in the premises as the representative of the United States, with notification of a claim of thirty thousand dollars accruing to those concerned in said vessel and cargo, furnishing therewith an inventory of the stores, furniture, and appurtenances. On the 19th day of February, 1848, the said Tyler, as consul aforesaid, dispatched said vessel Mary Teresa, under a new captain and crew, together with documents taken and received from the said bark Mary Teresa, at Bahia, to Rio de Janeiro, to Minister Tod, reciting in his letter accompanying said vessel the personal insults and difficulties, involving life and limb, with those in charge of the bark Mary Teresa, at Bahia, in consequence of his seizure and conduct in the premises; all of which and more will appear from his (Tyler's) letter of that date and here referred to.

The said vessel, under the charge of Captain Howard and crew, reached the port of Rio de Janeiro on the 29th day of February, 1848, and David Tod, minister at that port, by letter of date 9th of March, 1848, gives it as his opinion that Tyler, consul as aforesaid, had erred; that the papers were sufficient to entitle the vessel Mary Teresa to bear the American flag, and that he should not have compelled her to haul it down; that he (Tod) had turned the vessel over to one Mr. Parks; that he (Tyler) should not have sent her to Rio de Janeiro against the objections of the supercargo; that his suggestion was based upon the idea that the supercargo wished it, and that if when he changed his purpose or desire, that he (Tyler) knowing or having reasons to know it was so based, should not have sent the vessel to Rio de Janeiro; that the vessel would have to be sent to the United States in ballast; that great expense would at-

tend the same, and the vessel was of less value in the United States than Rio de Janeiro, and no one to hypothecate the vessel for funds to transport her, &c.; which letter is here referred to.

From a letter of James Buchanan, of the Department of State, dated June 3, 1848, it appears that Tyler, consul as aforesaid, wrote a letter of inquiry inclosing copies of all the papers of the Mary Teresa, dated 9th of April, 1848, and asking for instructions and advice touching his seizure of the Mary Teresa. Mr. Buchanan, in reply, says:

"The *Department* is *satisfied*, although his vessel, without being so entitled, bore the American flag, and that no *legal proceedings can properly be instituted against her*," &c.

He informs the said Tyler, as consul, that the vessel Mary Teresa had been taken by Captain Howard to the port of Philadelphia, and that he (Buchanan) in reply to a letter of the district attorney at that place, and that instructions to the same effect were given to him by the Treasury Department, and he was directed to *abstain from taking any steps in the case;* which letter is likewise here referred to. The letter of the Treasury Department referred to is that of McC. Young, Assistant Treasurer, dated May 31, 1848.

R. J. Walker, Secretary of the Treasury, by his letter of date June 5, 1848, in answer to one from James Page, collector of customs at Philadelphia, of date June 2, 1848, says:

"That the bark Mary Teresa was *improperly taken possession of* and sent to the United States by Tyler, consul aforesaid at Bahia, contrary to the wishes of her owner, and that the *acts* of the consul are *explicitly disavowed* by the Government; that the arrival of said vessel at that port is not to be treated as *voluntary* so as to subject the said vessel to alien duties, and to allow the said vessel to come to entry free of any charge for tonnage and to take a clearance for Baltimore."

Which is here referred to.

The letter of Mr. Buchanan from the Department of State, dated July, 1848, to Henry Leef, shows he had caused the original papers of the said Mary Teresa, as per list attached, to be delivered to Hon. Robert M. McLane for transmission to him. On the 14th day of February, 1848, the said Alex. H. Tyler, as consul of the United States at Bahia, summoned and procured, at his own instance, Joseph Swift, in conjunction with two other American ship-masters, to examine and value the bark Mary Teresa, of Baltimore, and that said valuers placed the value of said bark at *fifteen thousand* silver dollars, while said vessel lay at anchor in the said port of Bahia; also their certificates to an inventory of articles attached to her at the time; which are here referred to and marked H. The said John McKee, supercargo of the said Mary Teresa, on the 7th of February, 1848, propounded his individual claim for damages and losses to the said Tyler as consul aforesaid, growing out of and in consequence of his seizure of said vessel, estimated at $5,000, which is likewise referred to; also his account rendered and dated at Baltimore, 1st December, 1848, for $3,300, and marked R and G, and here referred to.

By the affidavit of John McKee, dated the 7th day of January, 1873, the following facts are deposed to by him: That he was the supercago of the bark Mary Teresa, owned by Henry Leef, of Baltimore, Md., when that vessel was taken possession of by Alexander H. Tyler, United States consul at the port of Bahia, Brazil; that as soon as the act of the said consul in seizing her was disavowed by the Government of the United States, the collector of the port of Philadelphia delivered to him, as the agent for the owners, the said bark Mary Teresa, which he dispatched to the port of Baltimore; that soon after her arrival at Baltimore she was duly advertised in the public newspapers for sale at auction, and was actually sold at public auction by a regular licensed auctioneer; that there were competitors at the sale; that the business firm of Nathan, Rogers & Company were the highest bidders; that they became the owners, and that afterwards, on their application to Congress, a special act was passed granting them an Amesican register for the said bark Mary Teresa, under which she was navigated for several years; that after such sale at auction the said Henry Leef had no interest whatever, direct or indirect, in said bark, as will appear from said affidavit with the papers, and here referred to and marked Z; that the bark Mary Teresa sold, as shown by the sworn statement of Henry Leef, at public auction for $2,500.

The account sworn to and filed with the papers, and marked H and L, for damages and losses on account of the seizure of the bark Mary Teresa by the said Tyler, as consul and the representative of the United States at the port of Bahia, Brazil, amounts in the aggregate to $23,036, and itemized as shown in said account stated, which is here referred to for all needful purposes.

This brings us now to the final question, viz: From these facts, should Congress grant the relief prayed for by the memorialist?

Your committee think not. If claims of this character should be allowed there is no reason why the Government ought not to compensate persons for illegal arrests, wrongful judgments of courts, wrongful acts

of military or naval officers either in peace or war, and in all cases where public authority has been abused. The officers of the Government are the *common agents* of *all* the citizens, and their wrongful acts cannot be made ground of a claim for damages against the Government in favor of its citizens. The rule is different as to foreigners. This claim for compensation for the wrongful acts of the officers and agents of the United States stands upon a different footing, involves different considerations, and requires the application of different principles recognized and sanctioned by international law.

But as to the citizen, the well-recognized principle is that the Government should not be made responsible for the illegal and unauthorized acts of its agents. There are, of course, exceptions to this general rule, which appeal to the legislative discretion for relief. For example, if the wrongful act of the agent has resulted in a benefit or pecuniary gain to the Government restitution should be made, or if the act of the agent has been sanctioned and approved by the Government, and the agent should be made liable in damages, he would ordinarily be indemnified. In the present case the wrongful act of the consul in seizing and detaining the vessel was neither authorized nor approved by the Government. On the contrary, it was promptly disavowed, and the vessel, as promptly as possible, returned to the United States and offered to be restored to the owner. No benefit whatever accrued to the Government, and the case presents no such exceptional features as would warrant a departure from the general rule of non-liability of the Government for the illegal acts of its agents.

Your committee accordingly report back the bill with the recommendation that it be not passed by the Senate.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1885.—Ordered to be printed.

ISON, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 2154.]

*mittee on Claims, to whom was referred the bill (H. R. 2154) for efit of the legal representatives of A. J. Guthrie, have examined ie, and report as follows:*

n or about the 16th January, 1867, the distillery of A. W. Dar- ated at Carrollton, Ky., was seized by the collector of the sixth revenue district for violation of internal-revenue laws. The thus seized was afterwards sold under proper proceedings, and eeds were paid into the Treasury. At the time of seizure there nty-one or two barrels of whisky in the cisterns of the distillery, . J. Guthrie, at the instance and request of the collector, drew laced in barrels furnished by him for the purpose. Said Guthrie made special custodian of the property, and as such had pos- f it from the 16th of January, 1867, to the 20th of April, 1867, reed price of $2.50 per day. Upon the last-named day the mov- perty was shipped to Louisville, Ky.; but Mr. Guthrie, under f the collector, continued in charge of the distillery at the rate r day from April 21, 1867, to July 9, 1867. Mr. Guthrie filed rate accounts, both of which were duly approved, according to the proper officers.

st bill was—

| | |
|---|---|
| s' time, from January 16 to April 20, at $2.50 | $237 50 |
| sky barrels furnished by him, at a price agreed upon, to wit, $2.75 | 60 50 |
| nd labor paid by him | 4 20 |
| gating the sum of | 302 20 |

cond bill being for the time while in charge of the distillery removal of the whisky, being 80 days at $2 per day, from to July 9, amounting to $160.

econd bill, covering the period of the United States marshal's on and custody of the distillery, while proceedings were pending the property, was allowed and paid as a part of the costs in the he first bill, for $302.20, which accrued while the whisky fixtures illery were under the control of the collector of internal rev- s forwarded by Guthrie to the clerk of the U. S. district court for rict, properly certified and approved, but seems to have been islaid, and was not taxed and paid as a part of the costs in the fter finding that this account had not been presented or allowed

by the court, Guthrie placed the claim in the hands of a claim agent, as appears from affidavits filed, who died leaving the claim uncollected. The evidence of the collector, James Hudnall, and of W. A. Merriwether, United States marshal for the district, establish the correctness of the claimant's account. The property seized was condemned and sold by the court, and the United States realized therefrom about $18,000, over and above costs.

Your committee consider the claim a just demand against the Government, and report back the bill to the Senate with the reccommendation that it do pass.

O

: CONGRESS, } SENATE. { REPORT
l Session. } { No. 1051.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1885.—Ordered to be printed.

)AMERON, of Wisconsin, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 5849.]

*Committee on Claims, to whom was referred the bill (H. R. 5849) limit- the time for the presentation and payment of claims against the United ites, have considered, the same and report as follows:*

ie committee concurs in the reasoning and recommendation of the ciary Committee of the House of Representatives in their report this bill, which is as follows:

> Committee on the Judiciary, to whom was referred the bill H. R. 5849, respect- report back the same with an amendment, striking out the word "two," in line , and inserting the word "three," and recommend its passage.
> Departments are crowded with claims old and stale. The Court of Claims is ited from rendering judgments upon claims which are over six years old. Under ct of March 3, 1883, known as the Bowman act, that court has recently decided no such limitation exists as to claims referred to an Executive Department. ane *vs.* The United States.)
> ir committee see good reason for creating a limitation upon claims against the nment which are to be passed upon elsewhere than by adjudication in the Court ims. The period of three years upon all existing claims, and of six years upon ture claims, will not obstruct the rights of any just claimant who uses due dili- , and will protect the Government and its officers from the investigation of old tale demands supported by partial and unreliable testimony after a long period apsed from the date of the transactions testified to.
> tatute of limitations, which has been termed a statute of repose, is specially re- l in respect to claims against a Government, and the committee believe its oper- will be most salutary in stimulating claimants to promptness in proof of their nds, and in saving the Treasury from false and unfounded claims.
> of which is respectfully submitted.

hile it is to be feared that the passage of this bill will send a horde aimants from the Departments to Congress, your committee are inced that the operation of the proposed law would, upon the whole, onducive to the best interests of the Government. There can be no ship in barring claims for which a proper tribunal has been pro- l, and which have not been presented to such tribunal within the pe- of limitation, the same being a reasonable period.

ie committee recommend the passage of the bill.

C

TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1052.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1885.—Ordered to be printed.

. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 5322.]

*e Committee on Claims, to whom was referred the bill (H. R. 5322) for the relief of William H. Wheeler, have considered the same, and report as follows:*

The claim is for corn and fodder alleged to have been taken by the ion Army from the claimant, at or near Bowling Green, Ky., in 1862. The claim was presented to the Quartermaster-General, and by him ferred to a special agent, who reported favorably upon the claimant's alty and recommended the payment of $633.50. General James E. in, deputy quartermaster-general, concurred in this recommenda- n; but the case was rejected September 9, 1882, the Quartermaster- neral not being satisfied of the claimant's loyalty.

The papers before the committee are the same ones upon which the artermaster General rejected the claim, except a few of a purely cumu- ve character. The committee cannot undertake to re-examine the ts in the numerous cases which have been rejected by the Quarter- ster-General's Office. In that office there are more than forty thousand ected claims, and there is a still larger number in the office of the Com- ssary-General. To examine these cases would be impracticable. The y relief which ought to be granted in these cases must be given by neral legislation. It would be unfair to discriminate in individual ses.

In isolated cases, where fraud or some such suggestion as would jus- y the interference of a court of equity has been made, the committee ve reviewed the decision of the Quartermaster-General, but never ien claims have been rejected by him upon pure questions of fact.

The committee recommend the indefinite postponement of the bill.

C

ONGRESS, } SENATE. { REPORT
ession. } { No. 1053.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1885.—Ordered to be printed.

IOAR, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill H. R. 754.]

*mmittee on Claims, to whom was referred the bill (H. R. 754) for elief of Nathan H. Dunphe, of Bridgewater, in the State of Massetts, have considered the same, and respectfully report:*

sugar in question was seized by Capt. F. G. Pope, under the cirnces stated in his affidavit, which here follows, and converted to of the United States:

WEALTH OF MASSACHUSETTS,
*Suffolk, ss:*

ay appeared before me Frederick G. Pope, a resident of Boston, in the county k, and Commonwealth of Massachusetts, and personally known to me as a n whose statements are entitled to full credit and belief, and being first duly eclares that during the month of May, 1863, he held the position of captain any D, Third Massachusetts Cavalry, and, by special orders from the War ent, had been appointed and was then acting as seizing officer of sugar, cotes, and other property found inside the rebel lines, near Barre's Landing, in of Louisiana, where he was then stationed as such seizing officer. He held tion during the months of April preceding and June following. In the latter April, 1863, he seized at Barre's Landing a parcel of sugar containing about gsheads, ten or twelve of which were badly broken, and the bulk of which en by Captain Perkins, assistant quartermaster, and issued as rations to eral troops. About thirty hogsheads of the above were in the yard of one Riquet, near the warehouse at Barre's Landing, otherwise called Port Barre. ehouse had been previously blown down by a tornado, the falling timbers ich had broken the ten or twelve hogsheads before mentioned. The thirty nd by him in good condition, and a guard placed over them. He was told aid Riquet (who was the warehouse keeper at Barre's Landing) that the said gsheads belonged to Nathan H. Dunphe, of New Orleans. The steamer Laurel n in the service of the United States, came up the river to the landing for f which there was, at that time, in his charge at this point about 2,000 bales. red by Major-General Banks to load the steamer with cotton. To enable rry 300 bales it was necessary to ballast her, and the 30 hogsheads of sugar d above were also, by order of General Banks, put aboard the Laurel Hill st.

eamer with the above cargo, and with General Banks on board and in command, down the river for New Orleans, and that was the last that he, the deponent, he sugar or cotton. The cargo of sugar and cotton was directed to Colonel l, chief quartermaster of the Department of the Gulf, at New Orleans. Detates that he has been informed that one Jules Dejean has deposed in regard natter that said sugar was seized by Colonel Blanchard, commanding the dred and sixty-second New York Cavalry Regiment, and that said regiment mall part of said sugar in its camp as supplies, and that the remainder of ar was shipped by the said Blanchard on the said steamer Laurel Hill to New but that this statement of the said Dejean does not exactly conform to the at, on the contrary, no such regiment as the One hundred and sixty-second

New York Cavalry was in this neighborhood, but that the One hundred and sixty-second New York Infantry Regiment was commanded by Colonel Blanchard, and was near this point at the time of the seizure aforesaid, and some of the broken sugar of the parcel aforesaid went into Colonel Blanchard's camp, and was used by his regiment.

Subscribed and sworn to at Boston in the said county and Commonwealth, this seventh day of February, A. D. 1884.

FRED. G. POPE,
*Late Captain Company D, Third Massachusetts Cavalry.*

Signed in presence of N. T. Dunphe before me.

JOSIAH F. KIMBALL,
*Notary Public.*

The facts are also abundantly established by the evidence of several other witnesses. Dunphe was a loyal man, a citizen of Massachusetts, engaged in trade in Louisiana when the war broke out. He gave valuable aid and information to the United States, and suffered imprisonment at the hands of the Confederates on account of his loyalty. He had another lot of sugar of fifty hogsheads, which was seized by the Government, and has been paid for by virtue of the provisions of a bill which passed in 1874. He duly and seasonably urged his claim for both, but he supposed the sugar now in question was seized by another officer, Colonel Blanchard, and therefore failed to obtain the proof needed to establish so much of his claim as is provided for in the present bill. He subsequently discovered the evidence of Captain Pope, now produced, and forthwith presented his claim anew, which he has constantly and seasonably presented.

We recommend the passage of the bill.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1054.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 23, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany petition of Mary E. Fillebrown.]

*The Committee on Pensions, to whom was referred the petition of Mary E. Fillebrown, asking for an increase of pension, have examined the same, and report:*

The petitioner is the widow of the late Commodore Thomas Scott Fillebrown, United States Navy. The officer enlisted in the service October 19, 1841; was made a lieutenant-commander July 16, 1862, a commander July 25, 1866, and promoted to the grade of commodore May 7, 1883, and died while in command of the Brooklyn Navy-Yard 27th of September, 1884. The application for pension was filed October 13, 1884, the claim made special, and a pension of $30 a month granted, to date from the filing of the application. The records of the Navy Department show that the officer suffered with rheumatism while in the service, but the last record of it appears twenty-two years prior to his death. He was under treatment for several months prior to his death for disease of the heart.

The widow is now in receipt of the pension provided by the general law, viz, $30 per month. In her petition she asks Congress to increase this pension to $50 per month, because of her husband's long and faithful service, together with the fact that at his death he left little or no property for her support. While your committee fully recognizes the fact that Commodore Fillebrown was a faithful officer and served his country with distinction, they do not consider it wise and proper to make exceptions to the general law in the matter of pensions. If the pension allowed in such cases by the existing law is too small, it should be enlarged by some general statute applicable to all. The policy of making exceptions based upon rank should not be continued or established.

Your committee accordingly recommend that the prayer of the petitioner be not granted, and that they be discharged from its further consideration.

ONGRESS, } SENATE. { REPORT
lession. } { No. 1055.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 23, 1885.—Ordered to be printed.

CKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 1747.]

*mmittee on Pensions, to whom was referred the bill granting a pen-ion to Patrick O'Brian, have examined the same, and report:*

records of the War Department show that Patrick O'Brian en-n the United States Army October 22, 1861; that he was mus-ı as a private December 23, 1861, and was mustered out December 4. The assistant surgeon, United States Army, reports Patrick n in the Government hospital at Louisville, Ky., April 13, 1864, contusion of right eye from fall," and he was transferred May 17, ) the hospital at Jeffersonville, Ind., and returned to duty June

applicant alleges in his informal application, filed May 5, 1873, s formal declaration filed July 2, 1880, that he was struck by a the head at Resaca, Ga., while laying a ponton-bridge over the rland River, on the 13th of May, 1864; that the wound injured s and rendered him nearly totally disabled, and impaired his The assistant adjutant-general, United States Army, states that ıpany of which O'Bryan was a member was in action at Resaca, the date mentioned, but no record is shown that O'Bryan was ɔd in the action.

: a thorough and careful investigation of the case, the claim was l by the Pension Office because there was no record of the exist-the alleged disability in the service, and because the claimant was to furnish any satisfactory proof of origin. The case was after-reopened for further examination; was referred to a special ex-for investigation and report. The special examiner made a ıorough and extended investigation in the presence of claimant's y. As the result of this examination it was established that ıbility of which claimant complained existed before he entered vice. The evidence taken by the examiner is too voluminous to in detail, but it shows this state of facts: That the claimant ;ime of his enlistment and all the time during his service was uch cross-eyed, and that his vision was very defective and his nsteady and peculiar, and that for these reasons he was kept on ıty during the whole of his service, and every witness declares did not know of any wound or injury incurred by the claimant ıervice, while some of the witnesses state positively that he re-

ceived no such injury as alleged in the service at any time. Besides, the hospital record shows that claimant was in hospital at Louisville at the time the alleged injury is claimed to have been received. The claim was accordingly again rejected, and in the opinion of your committee properly so. Accordingly, they report the bill back to the Senate with the recommendation that it be indefinitely postponed.

C

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1056.

IN THE SENATE OF THE UNITED STATES.

JANUARY 23, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 1780.]

*The Committee on Pensions, to whom was referred the bill (S. 1780) granting a pension to Benjamin Goodwin, have examined the same, and report:*

The claimant filed his application for pension on 6th of December, 1879, alleging that "while at the Gasconade River, Missouri, in December, 1862, in crossing said river on horseback, his horse struck a rock and threw him (claimant) backward, causing a very severe wrench and strain of the back which still affects him, rendering him unable to perform manual labor." The records show that the soldier enlisted as a private in Company B, Third Missouri S. M. Cavalry, and that he was discharged on the 27th of October, 1863. The application was rejected upon the certificate of disability upon which the soldier was discharged, and signed by the major of the regiment, the assistant surgeon, and the first lieutenant commanding the company. There is no record or other satisfactory evidence of the alleged injury to back, and the applicant, in 1883, declared his inability. to show its incurrence in the line of duty, and it was believed by the Commissioner and the examiners that the alleged injury is due to the disease of the kidneys, for which he was discharged and which the records show to have existed prior to his enlistment. The claimant was last examined by a board of medical examiners in Quincy, Ill., on the 21st of June, 1882, which reported that he was not incapacitated for obtaining his subsistence by manual labor because of the alleged injury, and gave him no rating. The case is before your committee on the same state of facts substantially on which it was considered by the Pension Office. No error is discovered in the action of the Commissioner in rejecting the claim, and the committee accordingly report back the bill to the Senate with the recommendation that it do not pass.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1057.

IN THE SENATE OF THE UNITED STATES.

JANUARY 23, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 1183.]

*The Committee on Pensions, to whom was referred the bill (S. 1183) granting a pension to Hugh O'Neil, having considered the same, report as follows:*

John O'Neil was a private in Company I, United States Infantry, and died in 1858. His father's application for a pension has been rejected by the Pension Office because there is no provision in the general law for pensioning dependent relatives of soldiers who died before March 4, 1861. In his letter to the committee the Commissioner of Pensions says:

> It appears that the mother of the soldier was pensioned by special act of Congress, and there does not appear any reason why the father should not also be similarly pensioned. The testimony on file shows that he is old and disabled, and that the mother during her life time shared her pension money with him for his support, &c.

In view of all the facts the committee recommend the passage of the bill.

O

CONGRESS, } SENATE. { REPORT
l Session. } { No. 1058.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 23, 1885.—Ordered to be printed.

WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4036.]

*Committee on Pensions, to which was referred the bill (H. R. 4036) nting an increase of pension to Thomas Ward, has examined the same, d reports:*

at the Commissioner of Pensions, in his letter transmitting the pa- in this case to the committee, says that—

> soldier was pensioned April 24, 1867, for loss of left arm, at $15 per month, from st 29, 1866, the date of his discharge; at $18 per month from June 8, 1872, and the act of March 3, 1883, his pension was increased to $24 per month.

om this statement it appears that this soldier is now receiving the est rate of pension allowed by law to his class and grade. There is vidence before the committee tending to show that his case presents features making it an exception in the matter of degree of disa- y to the general class to which it belongs. The case rests solely on evidence presented to the Pension Office, and on which it acted, and e soldier is suffering from any other disability than that therein ribed it has not been made known to the committee.

e bill is therefore reported adversely, with a recommendation that indefinitely postponed.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1059.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 23, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5812.]

*The Committee on Pensions, to which was referred the bill (H. R. 5812) granting a pension to Ellen A. Vance, has examined the same, and reports:*

That the Committee on Invalid Pensions of the House of Representatives made to that body the following report in this case, viz:

*The Committee on Invalid Pensions, to whom was referred House bill 5812, have had the same under consideration, and beg leave to submit the following report:*

Ellen A. Vance is the daughter of Joseph W. Vance, who served during the late war as colonel of the Ninety-sixth Regiment Ohio Volunteers, until killed in action, at Sabine Cross Roads, Louisiana, April 8, 1864. He left surviving him a widow and two daughters, the latter over sixteen years of age. The widow remained a pensioner until her death, which occurred a few years ago. The family was left in straightened circumstances, and upon the death of the widow, the daughters, both unmarried, were left without means of support. Ellen A. Vance was in her childhood paralyzed throughout the entire left side, and is not only wholly unable to support herself by labor of any kind, but is as helpless as a child.

Having by the death of the father, in defense of his country, been deprived of the support which she so much needs by reason of her infirmities, the committee are of opinion that the relief asked for by the claimant should be granted, and therefore report favorably on the bill, and ask that it do pass, amended, however, by striking out the word "thirty," in line 8, and inserting therein instead the word "eighteen."

The widow of the said Joseph W. Vance and mother of the said Ellen A. Vance was pensioned in 1865 at $30 per month, from April 8, 1864, the date of the officer's death, and continued to receive the same until she died, as stated in the House report. The physical condition of the said Ellen A. Vance renders her quite as unable to support herself and as dependent as though she were still in the early years of minority.

The committee therefore reports the bill to the Senate with the recommendation that it do pass.

O

# IN THE SENATE OF THE UNITED STATES.

JANUARY 23, 1885.—Ordered to be printed.

SON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3612.]

*mittee on Pensions, to which was referred the bill (H. R. 3612)*
*ıg a pension to Hayden Reynolds, has examined the same, and*
*:*

he committee adopts the statement of this case presented by
't of the Committee on Invalid Pensions of the House of Rep-
ves, as follows, viz:

*ttee on Invalid Pensions, to whom was referred the bill (H. R. 3612) author-*
*' directing the Secretary of the Interior to place the name of Hayden Reynolds on*
*ɔn-roll, have had the same under consideration, and submit the following report:*

Reynolds was a member of Company B, Fifth Iowa Infantry Volunteers.
d a pension under certificate No. 112364, from September 8, 1863, at the rate
nonth, by reason of gunshot wound of the right thigh, received, as alleged
aration, while passing along the streets of Memphis, Tenn , in March, 1863;
ı reissue granted on March 23, 1872, from September 8, 1863, at $6 per month.
1876, he was dropped from the rolls by reason of adverse testimony that
ner was not in the line of duty when he received the wound.
: of William F. Bodley, filed January 16, 1877; affidavit of James C. Hawk,
ıary 16, 1880; and affidavit of Alexander Ritter, filed December 22, 1867, in
y all testify to being in the same company and regiment, and that they
the claimant at the time he was shot, and that he was passing along the
he time, and that he was not intoxicated. The last two witnesses men-
:ify that the guard who fired the gun stated that the shot was accidental,
he had no intention of firing his gun. William F. Bodley states that the
ıind did not halt his crowd, and that he was the hindmost one of the num-
testimony of the parties named and others is to the effect that the com-
ɔfficer of the company gave Reynolds a pass to go to the city with others to
ɔvisions; he was, therefore, at the time, in the line of duty.
Agent E. R. Hutchins, in the investigation of the case, represents the unre-
f the claimant, and of Lieutenant McKee, whose testimony has been filed
f Reynolds; he also presents the statement of William F. Bodley that they
into a coffee-house, and after getting a lunch passed out quietly, and after
ıirty steps from the door he heard the report of a gun, and immediately
alked up the street and saw Reynolds lying on the pavement, after which
ken to the hospital.
affidavits have been filed to controvert the declaration and the original
referred to, but the testimony is only inferential in its character. The
ent dwells particularly upon the unreliable character of the claimant, and
eutenant McKee, but in view of the fact that William F. Bodley was ser-
he company, and the several other witnesses referred to, who were with the
ıt the time he was shot, all corroborating the fact that he was unquestion-
e line of duty, and as no evidence is on file to the contrary, your commit-
er it obligatory upon the Pension Office to restore the name of the appli-
e pension-roll. We therefore recommend the passage of the bill.

A careful examination of all of the evidence in the case, both that on which the claim was allowed by the Commissioner of Pensions and that upon which the special agent based his report, clearly shows that the latter was not sufficient to overcome the former and justify the action which dropped this soldier from the pension rolls.

The bill is therefore reported to the Senate with a recommendation that it do pass.

NGRESS, } SENATE. { REPORT
ssion. } { No. 1062.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 23, 1885.—Ordered to be printed.

.SON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 2272.]

*mittee on Pensions, to whom was referred the bill (S. 2272) grant-*
*pension to Andrew Franklin, alias Andrew McKee, have examined*
*ne, and report:*

aimant alleges in his own affidavit that his name is Andrew
1; that his father informed him he was born in France in De-
1793; that his mother was a French girl, whom he has no recol-
of ever seeing, and whom he believes was never married to his
that he came to Chillicothe, Ohio, in 1808, and lived in the fam-
mes McKee, who did not adopt him, but only took him into his
his father having died in Europe; that his father called him
Franklin, and he went by that name till he went to live with
who, knowing something of his birth, requested him to take
e of Andrew McKee, which he did, and was called by that name
body. He further states that he enlisted by this name in Cap-
nstrong's company, Ohio Militia, and served in the years 1812
3; that after the war he left the McKee family, and resumed his
name of Franklin, and has retained it to this time. He states
ot find any comrades living to identify him, though he has em-
awyers for that purpose, and gives the particulars of one occa-
en he was wounded in the arm, the scar of which he yet bears;
has no memorandum of the dates of his service, but served two
t times, the first for seven months, and the last a shorter period,
e middle of July, 1813, occasioned by the sudden approach of
ish officer Proctor toward Fort Stephenson; that they were in
gement, and he was finally compelled to leave on account of his
arm.
laimant has made no application to the Pension Office.
hird Auditor of the Treasury, under date of January 10, 1885,
s follows: "I have to inform you that Andrew McKee, ensign,
n Capt. Martin Armstrong's company of the First and Second
ts of Ohio Militia, commanded by Lieut. Col. David Sutton and
n Ferguson, from August 22, 1812, to February 22, 1813, and
ly 28, 1813, to August 18, 1813. The places of organization and
e of the above-named regiments are not disclosed by the rec-

Walkling, of Burlington, Kans., swears he has known claimant
ix years, when he came to that place; that he appeared then

to be sixty-five, and now looks like a man of ninety; that he believes absolute credit should be given his statements as to his being a soldier of 1812; that from current report ever since, and his own anecdotes, and statements of people of good reputation, he believes he was in said war.

Leo Whistler swears he knows claimant for thirty-six years; that his father, now dead, told him he knew Franklin under the name of Andy McKee in the war of 1812, and from many statements of his father's he believes he was a soldier in that war.

Hiram McAllister also swears to the same effect.

John E. Watrous, editor of the Burlington Independent, states that he has known the claimant twenty-five years; that he is honest and trustworthy, and that any statements he may make as to his being a soldier in 1812 may be implicitly relied on; that such is generally believed from the circumstances and statements of those now dead who were in a position to know.

A large petition is also presented in favor of the claimant.

Your committee recommend the passage of the bill with the following amendments: Strike out the words "to March seventh," in the seventh and eighth lines, and insert "to February twenty-second"; also strike out the words "time of filing his application for pension," and insert the words "passage of this act."

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1063.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 23, 1885.—Ordered to be printed.

Mr. MANDERSON, from the Committee on Private Land Claims, submitted the following

# REPORT:

[To accompany bill S. 79.]

*The Committee on Private Land Claims, to whom was referred the bill (S. 79) to amend an act entitled "An act to confirm certain private land claims in the Territory of New Mexico," having had the same under consideration, submit the following report:*

Your committee, having duly examined this claim for relief, have been unable to discover any obligation resting upon Congress for additional legislation in relation thereto.

The acts of Congress already passed upon the subject seem to be without ambiguity and to have afforded ample opportunity to the parties in interest or those under whom they claim to have availed themselves of such rights as were given them thereby.

The parties now claiming allege in their petition that they have fully complied with the requirements of law, and if this be so, no additional legislation is necessary; and your committee, whilst expressing no opinion upon the facts set forth in the bill and the claims of the parties therein mentioned as to title or otherwise, do not recommend any further legislation upon the subject, and ask that they be discharged from the further consideration of the bill, and that it be indefinitely postponed.

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: CONGRESS, } SENATE. { REPORT
l Session. } { No. 1064.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 23, 1885.—Ordered to be printed.

ULLOM, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 2570.]

*Committee on Pensions, to whom was referred the bill (S. 2570) grant-g an increase of pension to Col. Samuel M. Thompson, have examined e same, and report as follows:*

he papers on file in the Pension Office show that Samuel M. Thomp- enlisted in Company D, Fourth Regiment Illinois Volunteers, at ingfield, Ill., on June 9, 1846, for service during the Mexican war, was with his regiment until left at Matamoros on account of sick-, December 14, 1846. The records include a certificate of disability n by Surgeon William M. P. Quinn, U. S. Army, dated at "Camp Matamoros, December 11, 1846," and recommending the soldier's harge on account of "debility from chronic rheumatism, jaundice, It is shown that the soldier was a sound, healthy man at enlist-t, and that he has been disabled ever since his service in the Mexican having been unable to do any work much of the time, and having pronounced incurable in 1857, about twenty-eight years ago. For period of thirty-eight years the soldier has been lame, and not able to on the side of his lame hip. At no time since his discharge has he able to do more work than half the labor of a man in ordinary th. As a result of his disability his heart has become affected. or years past the soldier has been dependent on his step-children for port. He did not understand his rights under the pension laws, and not apply for a pension until 1879. His claim was allowed the fol-ng year, and he has drawn a pension at the rate of $12 per month e October 4, 1880. He is now nearly eighty-four years old, and his s are numbered. In view of his long standing and increasing disa-y, clearly resulting from his military service, of his dependent con-n, and of his advanced age, the committee are disposed to regard rably his application for an increase of pension, with a view to pro-ng him with the ordinary comforts of life during his last days, and mmend the passage of the bill with an amendment striking out the d "fifty" in the ninth line and inserting the words "twenty-five."

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IN THE SENATE OF THE UNITED STATES.

JANUARY 24, 1885.—Ordered to be printed.

.SON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 7046.]

*ımittee on Pensions, to which was referred the bill (H. R. 7046) ng a pension to Alonzo Cornwell, has examined the same, and re-*

the facts in the case are fairly set out in the report of the Com- n Invalid Pensions of the House of Representatives, and which ınoted as follows, viz:

*ittea on Invalid Pensions, to whom was referred the bill (H. R. 7046) granting a pension to Alonzo Cornwell, submit the following report:*

mmittee, having examined the evidence in above case, respectfully report zo Cornwell enlisted in Company F, Sixty-seventh Regiment Ohio Volun- try, October 27, 1861, and was discharged July 21, 1862, on surgeon's certifi- neral debility of three months' duration, following typhoid fever, "with no ıf recovery."

im for pension in this case is, "that on or about February 15, 1862, while rch up the Shenandoah Valley, Virginia, he was disabled by reason of rup- ıs of both legs below the knees; also by exposure and wading the Little ver, Virginia, he contracted rheumatism and chronic diarrhea, from which ır since been disabled."

im was rejected by the Pension Department on the ground that "no disa- n alleged causes exists."

ıamining the testimony carefully, your committee is at a loss to understand Department arrived at the conclusion that no disability exists.

izabeth Cornwell, of Toledo, Ohio, May 22, 1882, testified as follows:

e been well and intimately acquainted with claimant for the past fifty-eight well know that at the date of his enlistment he was a sound and healthy free from varicose veins, rheumatism, and diarrhea; did all kinds of man- I raised the claimant from a mere child to manhood."

ırriet J. Johnson, of Toledo, Ohio, November 29, 1882, testified:

w the claimant for about fifteen years prior to his enlistment; he worked for paid him $20 per month, and I know that at the date of his enlistment he ud and hearty man."

C. Dewey, of Toledo, Ohio, November 29, 1882, testified:

n or fifteen years prior to his enlistment the claimant was a near neighbor of ıaw him very often, and considered him a sound, hearty man, free from the or which he claims pension."

ıe witness, Dewitt C. Dewey, in another affidavit, testifies:

v from personal observation, being captain of Company F, Sixty-seventh Reg- ıio Volunteer Infantry, that while the claimant was a member of said com- in line of duty on a forced march from Pawpaw Tunnel and Winchester, he d with the regiment the Little Capon River, and in consequence of his being the time and immersion in cold water, I believe he contracted rheumatism ose veins, because he was unable to march further, and was conveyed to a t Cumberland, Md., and remained there one month, after which he was sent Pleasant Hospital, Washington, D. C.

"About June 19, 1862, I observed varicose veins on his legs before he was transferred to the Mount Pleasant Hospital."

The above witness is vouched for as reliable and worthy of credit.

Two more reliable witnesses testify to claimant's soundness prior to enlistment. S. F. Forbes, surgeon of the Sixty-seventh Regiment Ohio Volunteer Infantry, states that claimant has bad varicose veins, but cannot swear that the trouble was contracted in the service. W. H. Kief, captain in the Sixty-seventh Ohio Volunteer Infantry, in an affidavit made May 22, 1882, corroborates the testimony of Captain Dewitt C. Dewey.

Harriet J. Johnson, Dewitt C. Dewey, and Elizabeth Cornwell all testify to the existence of rheumatism and varicose veins ever since claimant's discharge from the Army.

Examining Surgeons J. S. Beck, J. M. Weaver, and A. S. Dunlap certify under date of January 23, 1884:

"The deep veins on both legs from knees to feet are very considerably enlarged. The internal saphenous vein has been ruptured, as indicated by a deep purple taint; rate, three-quarters, $6. Says he has no chronic diarrhea now; has had none since the summer of 1865."

The testimony as quoted seems to your committee sufficient to establish the claimant's case. The testimony is abundant as to his having been a sound man previous to enlistment. The witnesses to his disability having originated while in the service are not numerous, but very respectable and worthy of credit, while the testimony of his helplessness from date of discharge to the present time is perfectly conclusive.

Therefore your committee without hesitation recommend the passage of the bill.

The report of the examining surgeons, referred to in the foregoing statement by the House Committee, in terms states that:

"From the condition and history of the claimant, it is our opinion the disability was incurred in the service as claimed, and that it is not aggravated or protracted by vicious habits," and,

"We find the disability as above described to entitle him to three-quarter rating."

The committee is of opinion that the soldier is entitled to a pension, and reports the bill with a recommendation that it do pass.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 24, 1885.—Ordered to be printed.

SON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 4752.]

*mittee on Pensions, to which was referred the bill (H. R. 4752) grant-pension to William Herring, has examined the same, and reports:*

an examination of the record and proofs in this case has brought mittee to the conclusion that this bill ought to pass. The report ommittee on Invalid Pensions of the House of Representatives body is here given as a general statement of the case, and is as viz:

*ittee on Invalid Pensions, to whom was referred the bill (H. R. 4752) granting a pension to William Herring, respectfully report:*

Villiam Herring enlisted in the military service of the United States as a n Company A, Thirteenth United States Colored Heavy Artillery, October and was honorably discharged November 18, 1865.
, 1881, he filed a declaration for pension, alleging that at or near Smith-, in December, 1864, he contracted small-pox, which settled in his eyes, lisease of eyes and finally destroying the sight of both eyes, which was re-y 7, 1883, on the ground of no record and inability to satisfactorily connect ed disease of eyes with the service and line of duty.
Bibb, colored, of Jeffersonville, Ind., testifies, April 6, 1883:
he was a comrade of claimant; that the soldier contracted small-pox at Smith-, about Christmas, 1864. He was sent to the pest hospital, where he re-ear two months; saw him when he was broke out and sent to hospital, and e him again until he returned to duty. When he returned to duty he com-f his eyes hurting him. Seen him each year from the time of his discharge, ways complained of his eyes hurting him; said his eyes were getting worse. ir years ago he told me one of eis eyes had gone entirely blind, and about ago I saw him at his sister's, and he was then entirely blind. Lived on the farm and played and went with him up to our enlistment in the Army. He l any disease or sore eyes before enlistment."
Miller, colored, Louisville, Ky., testifies, April 11, 1883:
he knew claimant since he was a small boy; lived on adjoining farm, and d along with him; he was in good health and free from any disease of the to and at time of enlistment; saw him at discharge; his eyes were weak; ined a great deal of them; one of his eyes went blind about one year ago; en blind in the other eye for three years; seen him almost every year since rge."
cott, alias Parsons, of Louisville, Ky., testifies, April 3, 1883:
claimant ever since he was a child; lived close to him, and run with him enlisted; he was sound in health and free from sore eyes at time of enlist-s bunking with him in the Army; he took the small-pox, and was taken to tal at Smithland, Ky., about December, 1864; he was in hospital two or ths; saw him while in hospital; he had the small-pox, and his head and swollen as large as a water bucket; after his return his eyes were red, and ined of them up to the time of discharge; affiant and claimant returned to

their home in Logan County, Kentucky, together after discharge, where claimant remained about one year, and then went to Louisville, Ky. Next saw claimant two years afterward at affiant's house in Russellville, Ky., where he staid two or three weeks; his eyes were then very bad; could hardly see at all; they looked sore, and as if they were running water all the time; saw him again a year ago; he was then blind as a bat."

It is shown by the testimony of intimate associates and neighbors of claimant that at the time of his enlistment he was free from any disease of the eyes; comrades in the Army testify to his having small-pox while in the Army and in line of duty as a soldier; the diseased condition of his eyes at the time of his discharge, and continuously to the loss of the sight of both eyes, is shown by witnesses who had the opportunity of knowing the facts testified to, and whose reputation for truth is certified to by the examiner charged with the investigation of the case.

Your committee are of the opinion that the testimony in this caseen titles the soldier to a pension, and recommend that the bill be amended by striking out all of section 2, and, when so amended, that it pass.

The Commissioner of Pensions, in his letter transmitting the papers in the case to the committee, says:

The claim has been rejected on the ground that the records of the War Department fail to show the existence of alleged disability in the service, and the claimant is unable to satisfactorily connect the same with the service and line of duty.

It is true that the Adjutant-General reported that the records of the hospital for treatment of small-pox patients at or near Smithland, Ky., are not on file in his office. This is not the fault of the claimant, but of some officer in the service whose duty it was to keep and forward said records, and the claimant does prove that while in the service he contracted small-pox; that prior to entering the service he was a sound and able-bodied man; that after his recovery from the small-pox his eyes were affected; that they continued to be affected until finally he became wholly blind.

The committee believes that he contracted his disability in the service and is entitled to a pension, and therefore reports the bill to the Senate with a recommendation that it do pass.

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ONGRESS, } SENATE. { REPORT
lession. } { No. 1067.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 24, 1885.—Ordered to be printed.

CKSON, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill S. 2180.]

*mmittee on Claims, to whom was referred the bill (S. 2180) for the f of the trustees of the Christian Brothers' College, of Saint Louis, have examined the same, and report as follows:*

bill proposes to pay to the trustees of the Christian Brothers' e of Saint Louis, Mo., the sum of $20,000 in full compensation use and occupation of the buildings and lands of said college dur- e late war by the United States troops, and for injury to and ction of property belonging to said trustees by said troops. The s of the college, in their memorial to Congress, present the fol- as the history of the case and the grounds for relief:

*l of the trustees of the College of the Christian Brothers of Saint Louis, Mo., in rt of their bill for relief for the use and occupation of their said college by United troops during the late war.*

*norable the Senate and House of Representatives:*

memorialists respectfully submit the following statement of facts in support claim for relief and compensation for the use and occupation of their college he late war by troops of the United States:

to and at the commencement of the recent rebellion the Christian Brothers' of Saint Louis was a large, well-appointed, and flourishing institution, de- the education of youth in all the practical departments of knowledge. Its lrawn from all sections of the United States, numbered between four and five l, of whom two hundred lodged within the precincts of the college, and the attended daily from their respective places of abode in the city. From this lone the college derived its revenue, and upon this it depended for the main- of its corps of instructors, and the procurement of all needed educational fa-

taneously with the inception of hostilities your memorialists were forced to to the occupation in part of their college by troops in the service of the Uni- es. This extended to a considerable part of the buildings and all of the nant grounds, and speedily proved to be incompatible with the preservation line among the students or the prosecution of studies and scholastic exer- With the introduction of the noise and distractions of the adjoining prison rounding occupation by the troops, the voice of collegiate authority was , and the prizes of learning no longer proved attractive to the disheartened rildered students. The consequence was inevitable. At the close of the war nall fraction of the above number of pupils remained. From the injury thus d the college has never recovered.

ommon use by the soldiery of the halls and rooms was attended by great to the furniture, walls, and flooring. In several instances the partitions, and outer walls were cut through and greatly injured and defaced. This subse- necessitated the expenditure of large sums for repairs, &c., no part of which been repaid to your memorialists, or to any person on their behalf. Neither

have they derived any compensation whatever for the aforesaid use and occupation of their said college.

Wherefore they respectfully submit that they are justly entitled to the relief which they seek in and by the accompanying bill, and humbly pray that the same may be favorably considered by your honorable bodies, and, as in duty bound, they will ever pray, &c.

BRO. TOBIAS,

*For the trustees of the College of the Christian Brothers, Saint Louis, Mo.*

Your committee have uniformly reported against granting relief in cases similar to the present for reasons that need not be here repeated at length. We have declined to establish the precedent of holding the Government responsible in damages for injury to property in such cases. And in the absence of *contract* express or clearly implied for the payment of rent the committee have almost without exception declined to recommend compensation for the occupation of buildings, hired and occupied during the late war by the Federal forces. In the present case it may fairly be presumed that the occupation of the buildings in question was demanded by the military necessity of the situation; if so, the seizure and use were rightful and a legitimate exercise of the *war* powers of the Government. In such cases it is the settled rule, both of the Department and of Congress, not to make compensation to private owners. If, on the other hand, there was no pressing necessity of war to justify the military authorities in taking possession of the property, and their action was wanton and unauthorized, however it might be condemned, it would raise no valid claim for compensation against the Government.

The committee accordingly report back the bill to the Senate with the recommendation that it do not pass, but be indefinitely postponed.

CONGRESS, } SENATE. { REPORT
Session. } { No. 1068.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 24, 1885.—Ordered to be printed.

BAYARD, from the Committee on Private Land Claims, submitted the following

## REPORT:

[To accompany bill H. R. 1000.]

*Committee on Private Land Claims, to whom was referred the bill R. 1000) for the relief of Myra Clark Gaines, having had the same ler consideration, submit the following report:*

at at the second session of the Forty-sixth Congress the petition rs. Myra Clark Gaines, praying the same relief as is now proposed e bill under consideration, was introduced and referred to this ittee, by whom it was duly considered and an adverse report on ordered to be made to the Senate.

at at the first session of the Forty-seventh Congress, Senate bill No. for the same relief to Mrs. Gaines, was introduced and referred to ommittee, who again duly considered the same and resolved that an se report should be made thereon to the Senate; but that, owing to sonal request of Mrs. Gaines for a rehearing, the action of the ittee was suspended, and the session expired without final ac-

at the bill now under consideration (H. R. No. 1000) provides the measures of relief as had been previously considered by the come, as hereinbefore stated, and your committee having heard the el of Mrs. Gaines and read the brief and papers submitted thereon, ne of opinion that the relief proposed should not be granted.

the act of June 22, 1860 (12 Stats., p. 85), full opportunity was to claimants, either original or derivative, for the adjustment of titles and claims to lands in Florida, Mississippi, and Louisiana, the option was granted to such claimants either to prefer their s and proofs to the commissioners described in the said act, or to istrict court of the United States for the appropriate district, with pportunity in either mode to make good their rights and preten-

e five years allowed within which such claims were to be brought lecided having expired, by act of March 2, 1867, an extension of years was granted to the same end.

ur committee have not been furnished with any reason nor are able to perceive why the bar of the statute of limitation and repose d be removed in the present case, and without passing upon the ity of the derivative title of Mrs. Gaines or the recitals of the bill, report back the bill adversely, and recommend that it be indefi- postponed.

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TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1069.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 24, 1885.—Ordered to be printed.

r. JACKSON, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 2263.]

*e Committee on Claims, to whom was referred the bill (H. R. 2263) for the elief of the State National Bank of Boston, Mass., having examined the ame, make the following report:*

That at the last session of Congress your committee carefully examd this case, and reported favorably upon the bill for the relief of the nk. The House report sets forth correctly and in detail the facts of case, and your committee adopt that report, which is as follows:

*Committee on the Judiciary, to whom was referred the bill (H. R. 2263) for the relief of the State National Bank of Boston, Mass., submit the following report:*

The State National Bank of Boston is a banking corporation, duly established and anized prior to February 28, 1867, under the laws of the United States, and having place of business in the city of Boston, in the State of Massachusetts.

On that day, February 28, 1867, $725,000 in currency of the money of the State Nanal Bank was abstracted from its possession by a fraudulent conspiracy between firm of Mellen, Ward & Co., brokers, of Boston, and Julius F. Hartwell, the cash of the subtreasury at Boston, acting as "the agent of the United States," exnged for gold coin certificates of the United States, and these certificates deposited he office of the assistant treasurer at Boston, where they were canceled and then warded to the treasurer of the United States at Washington.

he manner in which this was accomplished has been found by the Court of Claims e as follows, viz:

bout a week before February 28, 1867, Mr. Carter, a member of the firm of Mellen, rd & Co., went to the banking house of the State Bank, and said to the cashier, Mr. ith, that he had been employed by the United States Treasurer to make an exnge of gold certificates for gold coin; that the gold certificates would be in the rchants' National Bank of Boston; that he wished Smith to certify Mellen, Ward Co.'s checks, drawn on the State Bank, as good at the rate of $125 in currency for ry $100 in gold, on receiving the gold certificates; that Mellen, Ward & Co. had funds in the State Bank, but that he, Carter, had made arrangements with the rchants' Bank to have the certified checks paid from the proceeds of the sale of d coin, and that they would not be presented to the State Bank nor go through the aring-house; Smith agreed to certify the checks, and on February 28 Carter came him and said that he wished to carry out the arrangement that day; Smith and rter went to the Merchants' Bank, where Smith certified two checks of Mellen, Ward Co. as good, one for $250,000 and one for $275,000, drawn on the State National nk, and received gold certificates of the United States to the amount of $420,000. rter said that it would be necessary to deposit the gold certificates in the subtreas for examination, and that Smith would receive a receipt for the amount redeema on demand; Smith having the gold certificates in his possession, went with Car-

ter to the office of the subtreasury, where they were handed to Hartwell by Smith, who gave in return a receipt as follows:

UNITED STATES TREASURY, BOSTON.

Deposited by Mellen, Ward & Co., of Boston, on account of deposits of gold c'tf's, amount four-and-twenty-thousand dollars, the same to be changed for gold c'tf's, or its equivalent, upon their order or demand.

Date, February 28, 1867.

J. F. HARTWELL, *Cr.*

When Smith asked why the receipt was not made to him, Carter replied, because he, Carter, was the party employed to make the transaction; and he thereupon indorsed upon the certificate: "Pay only to the order of C. H. Smith, cashier."

Smith took the certificate with him to the State Bank. Later, on the same day, Carter went a second time to the State Bank and said that a further amount was at the Merchants' Bank which he wished to arrange for in the same way. Smith went with him again to the Merchants' Bank where another check, drawn on the State Bank by Mellen, Ward & Co., was certified as good by Smith for $75,000, and he received in exchange for it $10,000 in gold certificates and $50,000 in gold coin. The gold coin was afterward exchanged for gold certificates, and the two proceeded to the Second National Bank of Boston, where Smith certified another like check for $125,000, and received in exchange gold certificates to the amount of $100,000. He then had in his possession $160,000 of gold certificates; these were taken by Smith to the subtreasury, to be deposited as the others had been, and they were given to Hartwell, who gave the following receipt for them:

UNITED STATES TREASURY, BOSTON.

Deposited by Mellen, Ward & Co., of Boston, on acc't of gold certificates deposited, amount one hundred and sixty thousand dollars, to be exchanged for gold c'tf's, or its equivalent, on demand.

BOSTON, *February* 28, 1867.

J. F. HARTWELL, *Cr.*

This was indorsed:

Pay only to the order of C. H. Smith, Cashier.

These receipts were taken by Smith to the State Bank. The next day he took them to the subtreasury and was told that they would not be paid.

The purpose of this scheme of fraud was to screen Hartwell, who was an embezzler. Some time prior to February 28, 1867, Hartwell had embezzled the money of the United States, he, as an officer of the Government, having access to and more or less control over the money in the subtreasury belonging to the Government, and placed it in the hands of Carter, who knew that he embezzled it for the use of Mellen, Ward & Co. as a loan. It was known to both Hartwell and Carter that an examination of the assets in the hands of the assistant treasurer at Boston would be made February 28 or March 1, 1867, and Hartwell's guilt discovered. It was to conceal his guilt that the plan was devised and carried into effect, as above stated, and the $580,000 of gold certificates procured and lodged in the subtreasury. Hartwell and Carter intended that after the examination the gold certificates should be returned to Smith. This was not done. After the close of business on February 28, 1867, Hartwell confessed his guilt to Whittle, a clerk in the office of the assistant treasurer, and told him that he had the gold certificates, and how he obtained them. After the office was closed, and while Hartwell and Whittle were on their way home, Whittle learned that Hartwell had the gold certificates with him, about his person, and Whittle induced him to give them to him, and they both returned to the office of the assistant treasurer, where they were canceled and forwarded to the Treasurer at Washington. It will thus be seen that Hartwell, one agent of the United States, fraudulently obtained these certificates, and another agent with full knowledge of the fraud, and that the certificates did not belong to the Government, consummated the fraud on the rightful owners by canceling the certificates, and turning them into the Treasury Department in settlement of Hartwell's embezzlement.

This was the state of facts March 1, 1867. The Merchants' Bank held Mellen, Ward & Co.'s checks in the State Bank, in which they had no funds, for $600,000, certified as good by Smith, the cashier of the State Bank.

The Second National Bank had a like check for $125,000.

The cashier of the State Bank held the two receipts for $580,000 in gold, or its equivalent, payable on demand.

The United States held the gold certificates for which those receipts were given, knowing that they had been obtained by the fraud of their own agent, and refused to give them up, because one of its officers engaged in the fraud had embezzled the funds of the Government.

ie facts many novel and important legal questions arose; amongst them f the sales of the gold certificates and the true owhership of them. The Bank brought suit against the State Bank, to recover $600,000 on the cer- of Mellen, Ward & Co. it held. This suit was tried before the late Mr. ord, of the United States Supreme Court, who, at a second trial, ruled chants' Bank could not recover. This ruling was ultimately reversed by ch, and the State Bank paid the full amount, with interest and costs. ., 604.)

ng this, the State Bank filed its petition in the Court of Claims to re- 30,000, without costs or interest The claim was persistently resisted by ent, and even after the decision of the Court of Claims in favor of the bank, e to the full bench, where, in 1877, ten years after the seizure of the funds, t was affirmed, and the Government paid the bank the sum of $480.000, rest. This left $100,000 unpaid, which the United States then held, and In their opinion (6 Otto, 30), the court say:

g of the court shows clearly that Hartwell knew when he received the hat they did not belong to Mellen, Ward & Co., and that they did belong Bank, represented by Smith as its agent. Hartwell was privy to the from the beginning to the end, and was a participant in its consummation. ied that Smith acted in entire good faith; what he did was honestly done, ccording to the settled and usual course of business. *Hartwell was the United States.* He was appointed by them and acted for them. He did, th knew, only what it was his duty to do, and what he did constantly for t is not denied that it was according to the law of the land. Smith no ed fraud, and had no more reason to suspect it, than any other of the arties who dealt with the subtreasury in like manner. There could stronger equity than that in favor of the plaintiff. * * * But surely equire neither argument nor authority to support the proposition that oney or property of an innocent person has gone into the coffers of the ans of fraud to which its agent was a party, such money or property can- y the United States against the claim of the wronged and injured party. as agent for no such purpose. His doings were vitiated by the under- esty, and could confer no rights upon his principal.

for $125,000 given to the Second National Bank, was by it transmitted & Co., of New York, to whom the gold certificates for $100,000 received t bank, originally belonged. Pitt Cooke, to whom the check was finally nenced suit in New York on that check. This suit involved not only some questions which were embraced in the Merchants' Bank case, but the na- original transaction and the title to $100,000 of gold certificates. This d, taken to the general term, and then to the court of appeals, and judg- l against the State Bank, February 10, 1873. This judgment was paid by nk, and the title to all the gold certificates obtained by Hartwell and for his embezzlements was fixed in the State Bank.

n in the case reported in 6 Otto, 30, was not rendered by the United States rt until 1877, but it settles every question of fact or law that can arise s of the case.

Government had paid the $480,000 in accordance with the judgment en- the mandate of the Supreme Court, there was remaining in the hands of ent of the United States $100,000, for which the State Bank, under the e Pitt Cooke case, had paid $125,000 and interest from February 28, 1867. 000 the Government had no legal or equitable right; it had been obtained of the agent of the United States, seized by another agent with full f the fraud, and turned into the Treasury of the United States. It be- State Bank, and in January, 1879, after having made demand on the the Treasury, that bank filed its petition for the recovery of the amount of Claims. The United States filed a general denial and pleaded the nitations. As to the effect of this plea of the statute of limitations, your ake the following quotation from the very able report of the Committee iary presented to the House of Representatives of the Forty-seventh Con- Hon. George D. Robinson, the present governor of Massachusetts, to be Congressional Record of January 28, 1882, p. 8:

mittee suggest that if the right of action accrued at the time of the origi- to wit, February 28, 1867, the statute would seem to be well pleaded, but accrue until the rights of the parties were determined by decisions in the hereinbefore referred to, or if, as the court intimates in 6 Otto, the United rustees for the true owners of the certificates, in which latter case a right ght not accrue until a demand and refusal, the statute is not well pleaded. e language of the act creating the Court of Claims, and a construction n (see 99 U. S., 493), the statute might be held to bar the claim."

"In view of the fact that the State Bank was constantly engaged for more than ten years in litigation required to determine the facts and to settle the difficult and novel questions of law involved, your committee are of the opinion that the case should be allowed a hearing before the Court of Claims upon its merits."

Your committee suggest that in defending the Pitt Cooke case the State Bank acted as much in the interest of the United States as of itself; for if successful in defending that suit, it would have placed the title to the $100,000 of gold certificates in Mellen, Ward & Co., who were *particeps criminis* with Hartwell in his embezzlements, and could not have made any claim on the United States.

A simple presentation of dates will justify the statement that the State Bank has not slept on its rights.

The transaction took place February 28, 1867. The United States, without right, and by the fraud of its agent, became possessed of the gold certificates on the same day.

The case of the Merchants' Bank *vs.* The State Bank, which settled the title to $480,000 of the gold certificates, was decided by the Supreme Court of the United States, December term, 1870.

The petition to recover the $480,000 was filed in the Court of Claims in 1872. The final decision on this petition was rendered by the Supreme Court in 1877, ten years after the conversion by the United States of the gold certificates.

The decision in the Pitt Cooke case against the State Bank was rendered by the court of appeals in 1873.

The relief proposed in the present bill has frequently been granted by Congress in similar cases. The attention of your committee has been called to the following instances:

An act approved March 3, 1873, for the relief of Leonidas Haskell.

An act passed by the Forty-second Congress, second session, chapter 89, authorizing the circuit court to hear and determine the claim of Thomas B. Valentine *on its merits.*

An act for the relief of Robert Tillson & Co., Forty-third Congress, first session, chap. 515, June 23, 1884.

An act by the Forty-fourth Congress, first session, chap. 279, August 14, 1876, for the relief of Harvey & Livesey.

An act by the Forty-fifth Congress, second session, chap. 166, June 7, 1878, directing the Court of Claims to hear the claim of Nannie Hall, "without regard to the statutes of limitations."

An act by the Forty-seventh Congress, March 3, 1883, for the relief of Sterling T. Austin, authorizing the Court of Claims to enter judgment, "any statute of limitations to the contrary notwithstanding."

On the facts presented to your committee, and following the law as laid down in the 6 Otto, 30, it seems settled beyond dispute that the United States now holds $100,000 of the money of the State National Bank of Boston; that it obtained this money nearly seventeen years ago by means of a fraud to which its agent was a party, and that it has no equitable or moral right to retain it longer. To deprive the lawful owner of this money by insisting on the statute of limitations, under the facts presented to your committee, would be a violation of the simplest rules of common honesty.

A bill corresponding to the present bill was unanimously approved by the Committee on the Judiciary of the Forty-sixth and Forty-seventh Congresses, and was passed by the House of Representatives of the last-named Congress by a vote of 128 yeas to 22 nays.

Your committee recommend the passage of the bill as amended.

Your committee fully concur in the conclusions of said report, and recommend the passage of the House bill by the Senate.

C

'H CONGRESS, 2d Session. } SENATE. { REPORT No. 1070.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 24, 1885.—Ordered to be printed.

. MILLER, of California, from the Committee on Naval Affairs, submitted the following

## REPORT:

[To accompany bill S. 2040.]

*e Committee on Naval Affairs, to whom was referred Senate bill 2040, 'for the relief of Capt. Andrew W. Johnson," having considered the ame, beg leave to report as follows:*

Capt. Andrew W. Johnson entered the service October 19, 1841, and ved faithfully through the several grades until he became the ior captain on the Register in 1884, and entitled to promotion to the ik of commodore. In January, 1884, he was ordered before the dical Board for Examination for promotion, and the Board reported, bruary 4, 1884, that *he was not physically qualified to perform all his ies at sea.* For this cause he was denied promotion to the rank of nmodore and was retired with the rank and pay of captain.

He had served forty-three years in the Navy, and had passed through eral severe engagements during the late war, and had always faithy and gallantly performed his duty. He had served nearly twentyee years at sea and had been employed while on shore duty in reonsible and important service.

The committee are of opinion that unintentional injustice has been e this officer, and that he should be retired with the rank and pay commodore. They therefore recommend that the bill do pass.

O

ONGRESS, } SENATE. { REPORT
lession. { { No. 1071.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 26, 1885.—Ordered to be printed.

KE, from the Committee on the District of Columbia, submitted the following

# REPORT:

[To accompany bill S. 1501.]

*mmittee on the District of Columbia, to whom was referred the bill 501) for the relief of Robert Strachan, John H. Johnson, Samuel Bryan, George Combs, Annie Botts, and George A. Hawkins, hav- onsidered the same, make the following report:*

the claimants allege that in the spring of 1875 the District of ɔia commenced to improve Sixteenth street northwest, and in provement cut down a hill in said street; that the earth from cavation was carried and deposited on New Hampshire avenue, ; of the residences of the claimants; that this earth was heaped regular piles extending the whole length of their residences, and n some places 3 or 4 feet high; that it was allowed to remain condition for a long time, and for a much longer time than was ry or needful; that by reason of this earth being so left, and of resaid excavation, the course of the water was changed and l to run along said avenue and into and through the houses of mants; that it sometimes stood in said houses to the depth of 3 eet; that in consequence of this the lower stories became unin- ɔle, the approaches inaccessible, and their houses damp, un- , and greatly injured; and that they applied at different times ity authorities for relief, but for reasons not stated relief was

ne of the claimants had furnished any evidence to the committee ɔort the expressed allegations, except Robert Strachan, and your tee are informed that no one of the other claimants owned the y at the time of the alleged excavation and work on said av- nd at the time when the injury was done, and did not purchase me time afterwards; that the owner at that time made no claim s died; that they purchased at greatly reduced prices in conse- of the changes made and the injury to the property; that the ɔbert Strachan was the owner of his property before and at the the alleged injury; that he has furnished proof to your com- that satisfies them that his allegations are substantially true, and e satisfied that he ought in justice to have his case heard and ined in the Court of Claims.

committee regard the claim of the said Robert Strachan as onal, and as not standing on the same ground as that of other

claimants, who claim damages for excavations for the improvement of the city.

His claim, and those of the others above named, have been pending before Congress for some six years last past.

Your committee are of the opinion, from what appears before them, that John H. Johnson, Samuel M. Bryan, George Combs, Annie Botta, and George A. Hawkins are not entitled to relief, for the reason above stated, but they do think Robert Strachan is.

The committee therefore recommend that the claim of said Strachan, with all vouchers, proofs, and papers, be referred to the Court of Claims, under the provisions and authority of section 1059 of the Revised Statutes, which gives the said court jurisdiction to hear and determine "all claims which may be referred to it by either house of Congress."

To accomplish this, the committee recommend the adoption of the accompanying resolution, and that the bill (S. 1501) be indefinitely postponed.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1072.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1885.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

# REPORT:

[To accompany bill S. 2295.]

*The Committee on Military Affairs, to whom was referred the bill (S. 2295) to grant a right of way to the New Orleans and Mississippi Valley Railroad Company for the construction of a railroad and telegraph line through the United States public grounds at Baton Rouge, La., have considered the same, and respectfully report:*

That the Secretary of the Interior was called on for such information and suggestions as might aid the committee, and that he replied, under date of January 24, as follows:

DEPARTMENT OF THE INTERIOR,
*Washington, January* 24, 1885.

SIR: I have the honor to acknowledge the receipt of your letter of the 21st instant, inclosing for my consideration copy of Senate bill No. 2295, Forty-eighth Congress, first session, to grant a right of way to the New Orleans and Mississippi Valley Railroad Company for the construction of a railroad and telegraph line through the United States public grounds at Baton Rouge, La., accompanied by a traced map of said public grounds.

In reply I have to state that the matter was referred to the Commissioner of the General Land Office; and I inclose herewith a copy of his reply, dated 23d instant, stating that he knows of no objection to the passage of the bill.

The tracing inclosed with your letter is herewith returned.

M. L. JOSLYN,
*Acting Secretary.*

Hon. BENJAMIN HARRISON,
*Acting Chairman Committee on Military Affairs,*
*United States Senate.*

Accompanying the above letter the Secretary furnishes the letter to him of the Commissioner of the General Land Office, as follows:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
*Washington, D. C., January* 23, 1885.

SIR: I have the honor to acknowledge the receipt, by reference from the Department, for report, of a letter, dated 21st instant, from Hon. Benjamin Harrison, acting chairman of the Committee on Military Affairs, United States Senate, inclosing copy of Senate bill No. 2295, Forty-eighth Congress, first session, "to grant a right of way to the New Orleans and Mississippi Valley Railroad Company for the construction of a railroad and telegraph line through the United States public grounds at Baton Rouge, La.," accompanied by a traced map showing said public grounds, and requesting the views of the Department as to the propriety of enacting the bill into a law.

In reply, I have to state that by the President's order dated August 22, 1884, the garrison grounds or reservation at Baton Rouge was turned over to this Department for disposal, under the act of Congress approved July 5, 1884.

No action has as yet been taken in the matter of the disposal of the lands embraced in the reservation.

I know of no objection to the granting of the right of way to the railroad company as proposed by said bill.

Senator Harrison's letter and inclosures are herewith returned.

Very respectfully,

N. C. McFARLAND,
*Commissioner.*

Hon. H. M. TELLER,
*Secretary of the Interior.*

The Secretary of War was also called on, who replied:

WAR DEPARTMENT,
*Washington City, January 20, 1885.*

SIR: I have the honor to acknowledge the receipt of your letter dated the 12th instant, inclosing S. 2295, a bill "to grant a right of way to the New Orleans and Mississippi Valley Railroad Company for the construction of a railroad and telegraph line through the United States public grounds at Baton Rouge, Louisiana," together with a map showing the proposed route, and requesting an expression of my opinion as to the propriety of giving the said bill favorable consideration.

In reply I beg to advise you that the Baton Rouge military reservation is not now under the control of this Department, it having been transferred to the control of the Department of the Interior by proclamation of the President dated August 22, 1884, in pursuance of the act of Congress approved July 5, 1884, entitled "An act to provide for the disposal of abandoned and useless military reservations."

It will thus be seen that the passage of the above-mentioned bill would in no wise affect the interest of the military service.

The copy of the bill received with your letter and its accompanying map are herewith returned.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
*Secretary of War.*

Hon. BENJAMIN HARRISON,
*Acting Chairman Committee on Military Affairs, United States Senate.*

In view of the foregoing communications the committee respectfully recommend the passage of the bill without amendment.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1073.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1885.—Ordered to be printed.

Mr. HAMPTON, from the Committee on Military Affairs, submitted the following

# REPORT:

[To accompany bill S. 2194.]

The Committee on Military Affairs, to whom was referred the bill (S. 2194) for the relief of George A. Curden, beg to report the bill back to the Senate adversely, inasmuch as a general bill covering all cases of this sort has been reported to the Senate by the committee.

C

:H CONGRESS, 2d Session. | SENATE. | REPORT No. 1074.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1885.—Ordered to be printed.

'. JACKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 2587.]

*e Committee on Pensions, to whom was referred the petition of William H. H. Gilley, praying for a pension to himself, have examined the same, ınd report:*

That William H. H. Gilley enlisted as a private in Company G, Forty-ond Regiment Indiana Volunteer Infantry, on the 28th day of Sep-ıber, 1861, and was discharged on the 9th of October, 1864. He filed application for pension September 13, 1879, alleging that while in the vice of the United States he contracted a fever which resulted in a ease of the back and kidneys. A supplemental application was filed, which he states that the original disease was typhoid fever, and that :aused asthma. The proof shows that at Henderson, while on the rch to Fort Donelson, the claimant contracted a fever about Febru-' 8, 1862, and that he was relieved from duty, and sent to the hos-ıl at Evansville, Ind., for treatment, but afterwards rejoined his iment. The evidence shows that he was a sound and able-bodied ı previous to entering the Army, and his health was very bad after discharge. The examining surgeon is of opinion that, "judging from present condition, and from the evidence before me, it is my belief t the said disability did first originate in the service aforesaid, in line of duty." The Commissioner of Pensions, however, rejected application for the reason that "the records of the War Department to show the existence of alleged disability in the service, and the lier is unable to furnish medical testimony of the existence of fever l alleged results in service or at discharge."

t is shown by the voluminous proof in the case, that during the vice, and after the attack of fever in 1862, the soldier constantly nplained of his back and kidneys, and had difficulty of breathing. t further appears that immediately or very soon after his discharge, required and received medical treatment for "asthma and disease of 'k and kidneys." The continuation of these disabilities is shown n date of discharge to his last examination by a Board of Medical Ex-iners made in 1882. It is, in the opinion of your committee, fair to ume from the evidence that the claimant's disabilities were con-:ted in the service, and that he is entitled to pension. We think t the prayer of his petition should be granted, and accordingly re-t a bill for his relief, with a recommendation that it be passed by the ıate.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1075.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 1927.]

*The Committee on Pensions, to whom was referred the bill (S. 1927) granting a pension to O. F. Miller, have examined the same, and make the following report:*

That said O. F. Miller, on the 5th of August, 1862, enlisted as a private in Company G, Seventy-eighth Illinois Volunteers; was discharged October 15, 1862, and on the 24th of June, 1880, filed his application in the Pension Office for invalid pension, alleging, as the basis of his claim, that in August, 1862, at Quincy, Ill., he contracted rheumatism, which affected his heart and system generally; and, further, that about the same time he accidentally contracted a venereal disease (syphilis). It appears from the company roll that from the very date of his enrollment (August 6, 1862) the claimant entered the hospital and continued therein till discharged. His certificate of discharge states that he had "never since enlistment performed any duty; that he was subject to epilepsy, which existed and was concealed by him when examined by the surgeon previous to the muster of the company." The claimant was examined by a board of examiners on May 23, 1883, which, after describing the loathsome condition of the claimant, reported that "it is our opinion that the alleged rheumatism is *consequent upon and inseparable from syphilis.*" The claimant states that he contracted the venereal disease from no fault of his own, but the explanation of its origin is highly improbable, to say the least of it. The claim was rejected by the Pension Office because "the alleged disability was not *incidental* to the service in the line of duty." The action of the Commissioner was clearly correct, and your committee report back the bill to the Senate with the recommendation that it be indefinitely postponed.

O

ONGRESS, } SENATE. { REPORT
Session. } { No. 1076.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1885.—Ordered to be printed.

ULLOM, from the Committee on Pensions, submitted the following

## REPORT:

*ommittee on Pensions, to whom was referred the petition of Charles Spencer, praying for an increase of pension, respectfully submit the wing report:*

have carefully examined all the papers in this case, and find that es B. Spencer served more than eleven years in the United States e Corps as a private, and was honorably discharged in 1878 for lity on account of double hernia. He was pensioned at the rate per month for life in April, 1883, under the act of March 2, 1867, g been honorably discharged after more than ten years' service. evious application for an invalid pension was rejected by the on Office because there was no record evidence, and he was un- furnish satisfactory testimony showing that his disability was ed in the line of duty. He claimed to have been ruptured in 1866, United States steamer Tuscarora, while exercising the broadside but presented no testimony of any kind whatever in support of tement. It appears from the records of the Navy Department e was in hospital for "double inguinal hernia," but that there is vidence that it occurred in line of duty." When he was examined scharge the Board pronounced him partially disabled, and re- l that his disability was not incurred in the line of duty. The declined to accept Spencer's statement as to the origin of his lity, "as the medical journal of the Tuscarora does not contain cord of this injury."

petition asks for an increase of pension on the ground that he is disabled from manual labor and compelled to be an inmate of ldiers' Home. In 1882 the examining surgeons at Dayton, Ohio, ed his condition as follows: "Has a double inguinal hernia, un- icated, and well kept up by a truss."

there is no evidence that petitioner's disability was incurred in e of duty, your committee ask to be discharged from the further leration of the petition.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1076.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following

## REPORT:

*The Committee on Pensions, to whom was referred the petition of Charles B. Spencer, praying for an increase of pension, respectfully submit the following report:*

We have carefully examined all the papers in this case, and find that Charles B. Spencer served more than eleven years in the United States Marine Corps as a private, and was honorably discharged in 1878 for disability on account of double hernia. He was pensioned at the rate of $8 per month for life in April, 1883, under the act of March 2, 1867, having been honorably discharged after more than ten years' service. His previous application for an invalid pension was rejected by the Pension Office because there was no record evidence, and he was unable to furnish satisfactory testimony showing that his disability was incurred in the line of duty. He claimed to have been ruptured in 1866, on the United States steamer Tuscarora, while exercising the broadside guns, but presented no testimony of any kind whatever in support of his statement. It appears from the records of the Navy Department that he was in hospital for "double inguinal hernia," but that there is "no evidence that it occurred in line of duty." When he was examined for discharge the Board pronounced him partially disabled, and reported that his disability was not incurred in the line of duty. The Board declined to accept Spencer's statement as to the origin of his disability, "as the medical journal of the Tuscarora does not contain any record of this injury."

The petition asks for an increase of pension on the ground that he is totally disabled from manual labor and compelled to be an inmate of the Soldiers' Home. In 1882 the examining surgeons at Dayton, Ohio, reported his condition as follows: "Has a double inguinal hernia, uncomplicated, and well kept up by a truss."

As there is no evidence that petitioner's disability was incurred in the line of duty, your committee ask to be discharged from the further consideration of the petition.

TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1077.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1885.—Ordered to be printed.

:. COLQUITT, from the Committee on Pensions, submitted the following

## REPORT:

*ie Committee on Pensions, to whom was referred the petition of Richardson K. Baird, asking an increase of pension, having considered the same, make the following report:*

The ground upon which an increased pension is asked for in this case an alleged error of the Secretary of the Interior in rating the degree his disability, deafness, received while in the public service. It ap-ars from the evidence that Richardson K. Baird was a private in mpany E, Second Regiment of Ohio Volunteer Cavalry, during the e war; that owing to exposure in said service his sense of hearing ame so far impaired as to amount almost to total deafness. It ap-ars that he made application in 1866 for a pension, on account of this l other disabilities, and was allowed $8 per month from June 26, 5, the date of his discharge, which amount was reduced to $2.66 in O, on an examination by a surgeon, whose certificate set forth that sion was being paid at a rate in excess of that which should be al-ed for the degree of disability shown to exist. On his application an rease was allowed at $4 per month, to date from September 4, 1877, in at $6 per month from October 4, 1880, and $10 per month from ril 3, 1884.

The petitioner again comes forward and claims an additional increase pension, basing his application, as he says in his petition, on the erro-us rating in his case only, not for an increase on account of increased ability. He alleges that by increasing his pay from $2.66 to $10 the partment conceded that previous ratings had been erroneous, and mits whether he is not entitled to arrears of increase from the date passage of section 4699. This the Department has refused to grant.

Our committee, after a careful examination of the whole case, are of opinion that the monthly allowance now made by the Secretary is y proportioned to the disability complained of, and that he acted ely in refusing to make any further increase of the amount.

Our committee, therefore, ask to be discharged from further con-eration of the case.

O

'H CONGRESS, 2d Session. | SENATE. | REPORT No. 1078.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1885.—Ordered to be printed.

. JACKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 1969.]

*e Committee on Pensions, to whom was referred the bill (S. 1969) granting a pension to William T. West, have examined the same, and report as follows:*

The said William T. West, on the 9th May, 1882, filed his application r pension as dependent father of Mahon H. West, late private in Comıny D, Fourth Maryland Infantry Volunteers, who died in Confederate ison August 5, 1864, the day after he entered said prison, as appears from e papers in the case. After examination and full investigation of the e claim, it was rejected on the ground that the claimant was not deındent upon the soldier for his support, either at date of enlistment or ath of the son. From the papers before your committee this action of e Pension Office was clearly correct. It appears from the records of ecil County, Maryland, where said William T. West has resided, that on e 8th February, 1859, I. Dixon Roman conveyed to claimant by deed, for e consideration of $400, a certain tract of land containing 20 acres; that another deed, dated February 25, 1863, John B. Ruth and wife, Isalla R., for the consideration of $500, conveyed to him their undivided erest in and to a farm containing 112 acres; also another tract conning 50 acres. It further appears that said William T. West and ne West, by deed dated June 3, 1876, for the consideration of $999, nveyed their interest in said 112 acres derived from Ruth and wife to illip R. West, the youngest son of claimant, and who was born in 1855. does not appear from said records that the claimant has disposed of e other tracts of 20 and 50 acres respectively conveyed to him in 59 and 1863. It further appears from the assessment books of Cecil ounty, Maryland, that the claimant was assessed for taxes in said unty as follows:

| Year. | On value of real estate. | On personal property. |
|---|---|---|
| ..... | $6,525 | $772 |
| ..... | 6,775 | 772 |
| ..... | 6,775 | 772 |
| ..... | 9,241 | 1,330 |
| ..... | 9,241 | 1,330 |

His assessment on value of real estate is continued till 1877 at over $9,000, while the value of personalty is continued at $1,330 till 1877, when it reached $1,475. For 1881, 1882, and 1883, his personal estate is assessed at $300. The value of these assessments, together with the fact that in 1876 the claimant conveyed a valuable interest in the 112-acre tract to his son, negative all idea of dependence upon the deceased soldier. The claimant was a farmer, and supported himself till long after the death of his son. How he is now supported or under what arrangement with his children does not appear.

Your committee report back the bill to the Senate with the recommendation that it be indefinitely postponed.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1079.

IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 297.]

*The Committee on Pensions, to whom was referred the bill (H. R. 297) granting a pension to Violet Calloway, has examined the same, and report:*

It appears from the papers in this case that the husband of the claimant served awhile in the Indian wars of 1810–'11. The widow filed her claim for pension under the acts of Congress granting pensions to soldiers of the war of 1812, but the claim was rejected on the ground that the alleged service occurred prior to the war of 1812, and in this action no error was made.

Your committee therefore recommend that the bill do not pass, and that it be indefinitely postponed.

C

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1080.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1397.]

*The Committee on Pensions, to whom was referred the bill (H. R. 1397) granting a pension to Albert O. Laufman, late second lieutenant of Company A, Sixty-third Regiment Pennsylvania Volunteers, have examined the same, and report as follows:*

That when the present bill was introduced for the relief of Second Lieutenant Laufman his claim was pending and under investigation in the Pension Office. In transmitting the papers in the case the Commissioner of Pensions states, under date December, 1884, that the officer was recently pensioned for alleged rheumatism, and resulting disease of heart and disease of the eyes, at $7.50 per month, with arrears, from July 27, 1862, and at $15 per month from August 27, 1884.

The claim having thus been disposed of in the Pension Office while the bill was pending in Congress, there is no necessity or propriety for the passage of the bill, and your committee report it back to the Senate with the recommendation that it be indefinitely postponed.

C

ITH CONGRESS, 2d Session. | SENATE. | REPORT No. 1081.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1885.—Ordered to be printed.

r. CULLOM, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 1951.]

*e Committee on Pensions, to whom was referred the bill (S. 1951) granting a pension to Martin Bevers, having considered the same, beg leave to submit the following report:*

Martin Bevers enlisted in Company G, One hundred and forty-fifth giment Indiana Volunteers, February 9, 1865, and was discharged nuary 21, 1866. He applied for a pension in 1882, alleging that he ntracted rheumatism at Indianapolis, Ind., in February, 1865, by lying mud and snow at Camp Carrington. Three witnesses testified that was sound at enlistment. He testified that he received no medical atment during service. Two members of his company testified that contracted rheumatism while they were on the march from Bainge to Cuthbert, Ga., in 1865, and that claimant hired a negro to rry his knapsack, &c., on account of said disease. Bevers was unable furnish medical evidence of the continuance of his disability since disarge, stating that he was never treated for it. Three neighbors testified at he had been one-half disabled by rheumatism since 1868. In April, 82, the examining surgeon reported "No disability," and that claimt "has not any special point of disease." In December, 1882, the amining board at another place rated him as three-fourths disabled, e-half on disease of lungs, and one-quarter on rheumatism. No other stimony being submitted, the claim was rejected "on the ground at there is no record of the alleged rheumatism, and claimant is unle to furnish any medical evidence of treatment for the same in the rvice or since discharge."

With no evidence before them in addition to that presented to the Pen-on Office and reviewed above, the committee must report against the assage of the bill, and recommend that it be indefinitely postponed.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1082.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 1171.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1171) for the relief of Isabel Campbell, having considered the same and accompanying papers, submit the following report:*

That the committee find the facts to be as stated in House Report No. 674, Forty-eighth Congress, first session, which said report is hereto annexed and made part of this report, and is as follows:

*The Committee on Invalid Pensions, to whom was referred bill H. R. 1171, beg leave to submit the following report:*

Claimant, Isabel Campbell, seeks to be placed on the pension-rolls as widow of James Campbell, late a corporal in Company K, Eighty-second Regiment of Ohio Volunteer Infantry. Her husband, James Campbell, volunteered in Ashland County, Ohio, November 17, 1861, for three years or during the war, and was duly mustered in as corporal of said company November 17, 1861. He served faithfully until February 24, 1863, when he was honorably discharged for disability. During his service and in the line of duty he contracted inflammation and hypertrophy of the left kidney, chronic diarrhea, and piles. On the ground of the disability thus contracted he was granted a pension, which he continued to receive until his death, which occurred February 10, 1875.

It is clearly established by the evidence of numerous physicians that the diseases contracted in the service had become incurable, that he had become so weak and enfeebled by said diseases that his death was inevitable in a short time, when he was attacked with typhoid pneumonia, which diseases unitedly produced his death.

It is evident from the testimony that the condition of the soldier was beyond the reach of medical aid, and that he could not long survive from the effects of the diseases contracted in the Army and on account of which his pension was granted. Owing to his reduced condition, he had not the strength or vital power to resist the attack of pneumonia. Four credible physicians of skill and experience in their profession testify that the diseases contracted in the Army were the direct and immediate cause of the soldier's death; that those diseases produced the fever as they had produced the debility, and constant suffering then rapidly and certainly hurrying him to the tomb.

In the Forty-seventh Congress, Dr. Rice, a member of this committee, a man of learning and skill in his profession as a physician, had this case under consideration to determine from the evidence whether the party died from the effects of the diseases contracted in the service or from other causes, and he indorsed the papers over his own signature as follows: "I would unhesitatingly recommend a favorable report in this case."

Owing to the sickness of Dr. Rice, a formal report of the case was not made to the House.

Your committee, therefore, recommend the passage of the accompanying bill.

The committee, therefore, adopt said House report as the report of this committee, and report the accompanying bill for her relief, with the recommendation that it pass.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1083.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 1709.]

*The Committee on Pensions, to whom was referred the bill (S. 1709) granting a pension to Leonora A. Boyden, respectfully submit the following report:*

This bill proposes to grant a pension of $50 per month to the mother of Charles F. Putnam, late a master in the Navy, who was lost in the Arctic Ocean. It appears from the records of the Navy Department that Putnam was appointed a midshipman in June, 1869, graduated from the Naval Academy in 1873, was promoted to ensign in 1874, was promoted to master in 1880, and was ordered to the U. S. S. Rodgers in 1881.

In a letter to your committee, the Hon. William E. Chandler, Secretary of the Navy, furnishes the following statement in relation to the duty upon which Master Putnam was engaged at the time he lost his life:

Master Putnam was one of the officers of the U. S. S. Rodgers, while that vessel was engaged in a search for the exploring steamer Jeannette and for missing whalers, in the Artic seas, in the fall of 1881. The Rodgers was destroyed by fire in Saint Lawrence Bay on the 30th of November of that year, and upon learning of the destruction of the vessel, Master Putnam, who had been placed in command of a depot at Cape Serdze, for the purpose of searching the coast, proceeded to the bay with provisions and clothing for relief of the officers and crew of the Rodgers, who were then distributed among the native villages in that vicinity. In returning to his station, after having furnished his associates with provision and clothing, Master Putnam missed his way while crossing Saint Lawrence Bay in a snowstorm, and was carried out to sea on an ice-floe and lost.

In view of the services rendered by Master Putnam, and of the circumstances under which he lost his life, this Department is of opinion that the claim of his mother, who, it is represented, was wholly dependent upon him for support, is a meritorious one, and earnestly commends the bill (Senate 1709) granting her a pension to the favorable consideration of the committee.

Following is an extract from a letter from Lieut. George M. Stoney, dated San Francisco, October 12, 1883:

I have every reason to believe that the body of Master Charles F. Putnam, U. S. N., was seen by the natives on the ice shortly after the Rodgers crew left, four men claiming to have seen it off the northern entrance of Saint Lawrence Bay. I talked with them, and two who so represented were the most reliable of them. They described the body as having papers upon it and a small pistol. Mr. Putnam did have a small pistol and it was the only fire-arm he carried. The body, they said, was lying on the ice covered with some furs, being very much swollen and the face very black; his sledge was beside him and bones of several dogs scattered about. They

think he starved to death, and that he had lived for some time after being blown off from the shore. I asked why they did not take his body ashore and bury it, but they replied he was dead and that they could not touch it. It is a noted fact that these people never disturb the dead nor anything belonging to them.

It is shown by a communication from the Fourth Auditor of the Treasury that Master Putnam granted his mother an allotment of his pay to the amount of $125 per month, which was paid to her for the twenty-four months prior to his death Robert Gibson, of Derby, Conn., also makes affidavit that Master Putnam before his death was the only support of his mother, who has since had no means of support other than what she has received from the Government on his account, and that she is now depending entirely upon such pension as may be allowed her.

As Master Putnam not only lost his life in the line of duty, but as a result of volunteering upon a dangerous expedition for the purpose of relieving his comrades, your committee regard his case as one of exceptional merit, and believe that his heroism merits the recognition proposed in the bill. We therefore recommend that the bill do pass, with the following amendment: Strike out the word "fifty" in the seventh line and insert the word "thirty."

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1084.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1885.—Ordered to be printed.

Mr. CAMDEN, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 4238.]

*The Committee on Pensions, to whom was referred the bill (H. R. 4238) granting a pension to Sallie Ingham, have examined the same, and respectfully report:*

The claimant was pensioned in 1865, at the rate of $8 per month from the date of soldier's death, as the dependent mother of Justin Frary, who died December 27, 1863. Claimant continued to draw a pension until July, 1869, when she forfeited her pension by her marriage to Mr. Ingham, who died in April 1, 1870, leaving no property, and Mrs. Ingham, being without means of support, now asks to be restored to the pension-rolls.

Your committee are of the opinion that the claimant being old and dependent should be restored to the pension-rolls, and recommend the passage of the bill.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1085.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1885.—Ordered to be printed.

Mr. CAMDEN, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 947.]

*The Committee on Pensions, to whom was referred the bill (S. 947) granting a pension to Powhatan B. Short, have carefully examined the same, and respectfully report:*

The claimant filed his application for a pension on January 22, 1878, for disease contracted while in the militia service of the State of Missouri as a private in Company K, Sixty-eighth Regiment of Enrolled Missouri Militia. The said regiment was never mustered into the service of the United States.

The claim was rejected by the Commissioner of Pensions on the ground that the soldier was a militiaman and not in the service of the United States, as shown by the records of the War Department, and did not file his claim prior to July 4, 1874.

Your committee are of the opinion that if relief is granted at all, in this and similar cases, it should be by a general law and not by special legislation, as special legislation would bring before the committee an immense number of cases of this character instead of sending them to the Commissioner of Pensions for examination, and therefore recommend the indefinite postponement of the bill.

)ONGRESS, } SENATE. { REPORT
Session. } { No. 1086.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1885.—Ordered to be printed.

ILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 2432.]

*)mmittee on Pensions, to whom was referred the bill (H. R. 2432) he relief of Mrs. Jane Young, has examined the same, and reports:*

; the committee concurs in the statement of the case made in the of the Committee on Invalid Pensions of the House of Repre- ives, and which is as follows, viz:

*mittee on Invalid Pensions, to whom was referred the bill (H. R. 2432) for the re- ' Mrs. Jane Young, having considered the same, beg leave to submit the following :*

ecords of the Adjutant-General's Office show that Henry Young, *alias* Frank vas mustered into the service as a private on the 17th day of August, 1863, to iree years or during the war, in Company G, Nineteenth Regiment Massachu- lunteers; that he was captured at Bristow Station, Va., October 14, 1863; l in Richmond, Va., October 23, 1863; sent to Andersonville, Ga., March 18, dmitted to hospital there August 6, 1864, where he died August 29, 1864, of is.

reasons for Henry Young assuming another name, that of Frank Lowe, is a statement made November 5, 1878, by Mrs. Young, and is as follows:

xplain the reason my son, Henry Young, assumed the name of Frank Lowe, him say he would like to be a soldier in this war. I told him if ever he en- would follow him wherever he would go. He says, if I take another name ld not find me; and I would have followed him if I had to lose my life; he would if it was possible. I told him many a time what I suffered during the ion in France in 1848. I left France January 8, 1861, and arrived in New York y 24, 1861, on board the steamship Rego, Captain Lyons. My husband was Fulton running to Port Royal, when he got cold and sickness, and my son went several times on the steamer with his father. He left the steamer and ered, and parted from me and assumed another name to deceive me. My hus- st his health in the war and likewise I lost my son, and I am left a broken- l widow and mother; and what he earned he gave to me."

affidavit Mrs. Young says that she found out by a man named Morris of her king the name of Frank Lowe, who sent by Morris letters to her, addressing is mother.

nother filed her application for a pension February 12, 1878, and it was rejected ollowing language:

assumption by soldier of the name Frank Lowe is explained by claimant in t. From the evidence filed it appears the claimant's husband had no appre- isability at the time of the soldier's death in 1864, as he was then, and had m 1863, and continued until the summer of 1865, employed as water-tender on ted States steamer Fulton. The claim is therefore rejected on the ground that time of the soldier's death the claimant's husband was physically able to, and port her."

nant's husband died in 1874 of Bright's disease of kidneys. Several affidavits duced showing that he was seriously disabled by rheumatism so that he l only a part of the time, and that he did not earn sufficient for the support of ily.

The claimant testifies that her son for four or five years prior to enlistment contributed about $5 per week toward her support, and this fact is corroborated by D. Roberts and Francis Savage in affidavits made by them, who know positively of said contributions being made. One of soldier's letters refers to money sent to his mother.

The widow is now said to be in needy circumstances. She swears that she is in want of the common necessaries of life. The committee are satisfied that the claimant's son died at the prison in Andersonville, Ga., as alleged, and that he contributed largely to her support before enlistment, and that were he now living he would or could so contribute. They believe her to be entitled to a pension for his loss, and therefore recommend the passage of bill H. R. 2432, which places her on the pension-rolls, subject to the provisions and limitations of the pension laws.

It also appears in the case that after the contributions of the son toward the support of the mother ceased by reason of his enlistment in the Army she resorted to extra personal exertions to supply the loss of the aid so before received from him, and that by work with her sewing-machine, much of which was done at night, she earned about the amount per week that he had been accustomed to contribute toward her support.

The case is one of merit, and the bill is reported with a recommendation that it do pass.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1087.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1885.—Ordered to be printed.

Mr. SLATER, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 1731.]

*The Committee on Pensions, to whom was referred the bill (S. 1731) granting an increase of pension to Frances H. Downes, have examined the same, and report as follows:*

The claimant, Frances H. Downes, is the widow of John Downes, who was a commander in the Navy, and died at New Orleans on the 21st day of September, 1865. She was pensioned at $30 per month, dating from death of husband. She now seeks an increase to $50 per month.

There is nothing disclosed in the papers in the case upon which such an increase could in the least degree be justified. Commander Downes entered the naval service in 1837, and was about forty-three years of age at his death.

Your committee recommend that the bill do not pass.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1038.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 6197.]

*The Committee on Pensions, to whom was referred the bill (H. R. 6197) granting a pension to Peter Falkner, has examined the same and reports:*

That the said Peter Falkner enlisted in Company D, United States Engineers, February 7, 1865, for the term of three years, and was discharged February 7, 1868, by reason of expiration of service. He applied for a pension March 6, 1876. The Commissioner of Pensions, in his letter transmitting the papers in the case to the committee, says:

> The soldier alleges rheumatism contracted during the winter and spring of 1867, while on duty at Willet's Point, N. Y., building fortifications. The claim has been rejected on the ground that the alleged disability was not contracted in the line of duty, as shown by the records of the Surgeon-General, United States Army:

The committee is of opinion that the rejection was proper, and on examination of said records as they are presented in the files of the case fail to disclose any such equities and exceptional facts as would justify the committee in recommending the passage of the bill. It is therefore reported adversely, with a recommendation that it be indefinitely postponed.

TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1089.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 4856.]

*The Committee on Pensions, to whom was referred the bill (H. R. 4856) granting a pension to Bvt. Col. C. A. Cilley, of North Carolina, has examined the same, and reports:*

That Colonel Cilley filed his application for a pension in the Pension Office April 8, 1882, in which he made the following statement of his case, to wit:

I am the identical Clinton A. Cilley who was enrolled on the 29th day of May, 1861, in Company C, of the Second Regiment of Minnesota Volunteers, commanded by Capt. James Georges, and I was honorably mustered out to be promoted on the 4th day of December, 1861, and was promoted to second lieutenant in Company C, Second Minnesota Volunteers, December 4, 1861, and was again promoted to first lieutenant in said company and regiment April 16, 1862, and promoted to captain in said company and regiment July 10, 1862, and made assistant adjutant-general with rank of captain July 14, 1864, and promoted to major and assistant adjutant-general March 21, 1865, brevet lieutenant-colonel March 13, 1865; brevet colonel March 18, 1865, and was honorably mustered out by General Order 429, War Department, Adjutant-General's Office, on 1st September, 1866.

That while in the aforesaid service and in the line of duty I incurred the following disability, to wit: Progressive locomotary ataxia, or partial paralysis, rendering it difficult for me to walk more than a few minutes at a time.

I incurred the nervous dyspepsia, which resulted in this disease, by my constant and hard work in the Army, exposure, service in inclement weather, sleeping on the wet ground, and the hardships to which I was necessarily exposed while a company officer, and while on the staffs of the Third Brigade, Third Division, Fourteenth Army Corps, Third Division, Fourteenth Army Corps, and Twenty-third Army Corps, or Army of the Ohio. I have lately been advised by my physicians that my disease was caused by Army service, and to make this application.

This is the case presented to the Pension Office, and which was there rejected. The Commissioner of Pensions, in his letter transmitting the papers in the case to the committee, states that—

The claim has recently been rejected on the ground that the alleged disability is not shown to have its origin in the service.

There is no medical or other evidence before the committee showing this action of the Commissioner of Pensions to be other than correct. Indeed, there is no evidence in the case relative to the incurrence of the alleged disability which goes back to the period of service, and the only medical testimony presented consists of the following certificate and affidavits, viz:

LENOIR, N. C., *February* 15, 1884

MY DEAR SIR: This is to certify that I have personally known Col. Clinton A. Cilley since 1866, during which time he has been my patient. About ten years since

he applied for treatment for neuralgia, and I advised the removal of several decayed teeth, which seemed to be the irritating cause of the trouble. Their removal gave only temporary relief, and his malady, "progressive locomotor ataxia," has continued until his whole system seems a perfect wreck. He has tried every remedy advised by the very best physicians, has spent several months at the Hot Springs in Arkansas, with the hope of obtaining relief, all to no purpose.

I am satisfied that his disease was caused by exposure during the war, and as a soldier of the United States he should have a pension, and I hope the Committee on Invalid Pensions will recommend it.

Very respectfully,

J. MASON SPAINHOUR, *D. D. S.*

Hon. R. B. VANCE,
*Washington, D. C.*

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*February* 18, 1884.

I certify that I have known personally Col. C. A. Cilley for a number of years (say seven), and that during almost the entire period he has been an invalid, losing from year to year his physical strength. He has, in my opinion, what is technically termed progressive ataxia, and is totally incapacitated for performing any manual or physical labor whatever. The foregoing is submitted by me, a practicing physician of this Caldwell County, North Carolina.

W. W. SCOTT, *M. D.*

Sworn to and subscribed before me, this February 18, 1884.
[SEAL.]

M. E. SHELL,
*Clerk Superior Court of Caldwell County.*

LENOIR, N. C., *February* 18, 1884.

I have known Col. C. A. Cilley as a sufferer from neuralgia for a number of years. Part of the time he has been under my treatment for neuralgia in its local forms, affecting the lumbar region, the course of the sciatic nerve, and lower extremities; and also in its more general form of neurasthenia. He has failed to derive permanent benefit from treatment, and also a course at Hot Springs, Ark. The nerves of sensation are not only affected, but the motor nerves, especially of the lower extremities, are so seriously affected that he walks with difficulty. He has been so seriously affected as to prevent his practicing his profession; and, in my opinion, he ought not to try to do so now.

R. L. BEALL, *M. D.*

Sworn to and subscribed before me, this February 18th, 1884.
[SEAL.]

M. E. SHELL,
*Clerk of Caldwell County.*

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STATE OF NORTH CAROLINA,
*County of Caldwell:*

This day came before me, an acting magistrate for the county aforesaid, A. A. Scroggs, M. D., and made oath in due form of law that he has been well acquainted with Col. Clinton A. Cilley, late of the Federal Army, ever since shortly after the surrender; has been his family physician and his own medical adviser for over fifteen years.

Like many others, Colonel Cilley came out of the war in apparent health; for a season this continued, when, notwithstanding his uniformly temperate life and correct habits, a series of what was adjudged a kind of nervo-rheumatic pain, exceedingly untractable and severe, developed in his system, whose persistence in spite of treatment, both hygienic and medicinal, pointed with almost unmistakable evidence to the privations and exposures of army life as the primary source of a shocked and diseased nervous system, now unfitting him for the labors and successful prosecution of the duties of his profession, and constantly threatening him with still greater disabilities.

This affiant further certifies that he has no claim or interest whatever in making this affidavit.

A. A. SCROGGS, *M. D.*

Sworn to and subscribed on this 20th day of February, A. D. 1884.
Before me.
[SEAL.]

M. E. SHELL,
*Clerk of Caldwell County.*

It will be observed that this testimony does not connect Colonel Cilley's present unquestioned disability with his service in the Army.

The Commissioner of Pensions notified claimant of the need of further evidence to perfect his case. One of the notices was as follows, viz:

DEPARTMENT OF THE INTERIOR, PENSION OFFICE,
*February* 20, 1884.

SIR: In the claim for original invalid pension No. 445384, of Clinton A. Cilley, the testimony indicated in paragraph No. — should be furnished.

1. The affidavit of a commissioned officer or first sergeant of claimant's company, setting forth when, where, and under what circumstances the alleged locomotor ataxia was contracted.

2. The affidavit of the surgeon, or assistant surgeon, of claimant's regiment as to treatment for locomotor ataxia while in the service. It is desirable that the description of the disability should be, as far as practicable, in the handwriting of the surgeon.

The following names and addresses of officers of the claimant's company and medical officers of his regiment are given, with the view of assisting him in furnishing the required evidence:

Reg. Surg. B. H. Bingham, lives at Oshkosh, Wis.
Reg. Surg. Moody C. Tallman, lives at Oshkosh, Wis.
Hospital Steward J. V. Smith, lives in Pepin County, Wisconsin.
Asst. Reg. Surg. J. L. Armington, lives at Cannon River Falls, Minn.
Asst. Reg. Surg. Otis Ayers, lives at Le Sueur, Minn.
Asst. Reg. Surg. William Brown, lives at Chicago, Ill.
Capt. U. S. Baily, lives in Jasper County, Minnesota.
Lieut. H. K. Coure, lives at Waverly, Iowa.
Lieut. Jules Capon, lives at Wabasha, Minn.
Lieut. Mathias Thoney, lives at Glencoe, Minn.

Very respectfully,

WM. W. DUDLEY,
*Commissioner.*

CLINTON A. CILLEY,
*Lenoir, Caldwell County, North Carolina.*

It is not made to appear that any effort was put forth by claimant to procure the evidence required, nor is it explained why it was not done. If proper effort had been made it may be conjectured that the result would have induced an allowance of the pension by the Commissioner of Pensions. The case can be reopened before that officer upon presentation of the evidence called for.

Hence the committee, without intending to prejudice the case in the Pension Office, feels that it cannot make it an exception to the general rule which requires due effort to be made for the proof of a case under the pension laws before resort be had to Congress for the passage of a special act. The bill is therefore reported adversely, with a recommendation that it be indefinitely postponed.

8TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1090.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4569.]

*The Committee on Pensions, to which was referred the bill (H. R. 4569) granting a pension to David Urbansky, has examined the same, and reports:*

That this case was rejected by the Commissioner of Pensions "on the ground that the records of the War Department fail to show the existence of the alleged disability in the service, and there is no medical or other satisfactory evidence to establish origin."

The Committee on Invalid Pensions of the House of Representatives reported favorably on the case, and its report is as follows, viz:

*The Committee on Invalid Pensions, to whom was referred bill H. R. 4569, beg leave to submit the following report:*

The claimant in this case, David Urbansky, enlisted in Company B, Fifty-eighth Ohio Volunteer Infantry, October 28, 1861, and was discharged from the Army January 13, 1865.

The claim was rejected at the Pension Office on the ground that the disability for which pension is claimed has not been established by medical or other satisfactory evidence as having its origin while claimant was in the military service of the United States.

The disability is nervous rheumatism, claimed to have been contracted after the capture of Vicksburg, Miss. This is an *obscure* disease, and undoubtedly difficult to prove. The claimant has been unfortunate in not getting testimony as to his condition previous to enlistment.

The records of the Department do not furnish the evidence of the existence of rheumatism as claimed, but Dr. J. Frank, of Cincinnati, under date of April 27, 1885, testifies that "Urbansky is in a bilious condition, and his liver is not healthy. He is not able to make a living by any work of his hands." In another affidavit the same physician says, "He constantly suffers with rheumatism." The above testimony dates the disability back to the time of leaving the service, or nearly that time.

Two comrades, members of his company and regiment, say in a joint affidavit:

"The claimant contracted rheumatism after the capture of Vicksburg by the Union forces. We were well acquainted with him while together in the service of the United States. By his disease he was rendered unfit for service and was sent to the hospital for treatment."

Several physicians of good standing testify to his helpless condition during the last fifteen years.

There is no doubt of his inability to perform any kind of manual labor, and the testimony is sufficient to convince your committee that the disease was contracted while in the service of the United States, and has continued with more or less severity ever since. He was a soldier for nearly four years, and lost his health, and the passage of the bill is recommended.

Following this report the House of Representatives passed the bill. But it does not seem to your committee that the evidence in the case reasonably establishes the incurrence of the alleged disability in the service. The bill is therefore reported adversely, with a recommendation that it be indefinitely postponed.

The amendment which the Senate made to the "Mexican pension bill" will, in the event it shall become a law, provide for this and all like cases.

'H CONGRESS, 2d Session. | SENATE. | REPORT No. 1091.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1885.—Ordered to be printed.

. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5926.]

*e Committee on Pensions, to whom was referred the bill (H. R. 5926) ranting a pension to John Maloney, has examined the same, and reports:*

That the report made to the House of Representatives by the Comtee on Invalid Pensions of that body presents a fair statement of this e, except that it omits the testimony of several witnesses supplied er the date of the report of the special examiner who reported the e for rejection, and dated subsequent to the date of rejection, indorsed the brief of the case in the Pension Office, all of which tends strongly support the case, and is more definite than much of that on which the use committee seems to have relied. The report of the said House nmittee is as follows, viz:

*Committee on Invalid Pensions, to whom was referred the bill (H. R. 5926) granting a pension to John Maloney, respectfully report:*

'hat John Maloney enlisted in the military service of the United States as a private Company K, Seventieth Regiment Indiana Volunteer Infantry, July 25, 1862, and s honorably discharged March 8, 1863, on account of anchylosis of right ankle.

Iovember 5, 1874, he filed an application for pension on account of diseased eyes, tracted at Gallatin, Tenn., January 15, 1863, which was rejected January 31, 2, on the ground that disease of eyes originated prior to his enlistment.

he testimony in this case was taken by a special examiner of the Pension Office, is conflicting in character.

appears from the evidence that the claimant is now an old man, and that he is eeble health.

eander M. Campbell, of Danville, Ind., a lawyer by profession, and a reputable ten, testifies that he has known claimant since 1854; that he enlisted him as a ier; that he had no recollection of his eyes being diseased or affected prior to t time; that he doubted his being accepted as a soldier, on account of his age, but t his case was fully considered, and no objection found to him; that if his eyes had n diseased he thinks he would have noticed it and known it.

'illiam J. Hoadley, M. D., of Danville, Ind., testifies, July 26, 1882:

'That he has known claimant for sixteen years; that he treated him for diseased s for four months in 1869, and that his partner treated him for some time afterds; that his eyes were in an inflamed condition at that time; that he has noticed mant's eyes since 1869, and they have gradually grown worse to the present time, en the sight of one eye is entirely destroyed; that when he first treated him he ught the use of intoxicating liquors aggravated the disease, but declares positively t for two or three years claimant has not drank anything; that during the sixteen rs he knew him he was not intoxicated more than two or three times, and that he s not a 'steady drinker.'"

Iacob L. Adams, Danville, Ind., testifies that he was a near neighbor of claimant or to his enlistment, and that he was a sound man at the time, and especially free m disease of the eyes, with which he has been afflicted since discharge.

Thomas Nichols, of Danville, Hendricks County, Ind.; James Lockridge, A. W. Tont, J. Cummins, G. W. Tont, and W. L. Wilson, all citizens of good repute, of Danville, Ind., testify, August 30, 1875, that they have known claimant for fifteen years last past, and that prior to enlistment he was entirely free from any disease of the eyes, and that on his return to Danville and continuously to the present time he has been afflicted with a disease of the eyes known as "granular lids."

In an affidavit filed August 15, 1877, James Nicholas and Jacob Hube testify that they have known claimant since the year 1857. Prior to enlistment he was sound, able-bodied, and free from disease of the eyes. At the date of his discharge he was suffering from sore eyes and could hardly see. The eyelids were granulated and inflamed. The sight of the right eye has been entirely destroyed, and the left has become nearly useless. The disease of eyes has been continuous from date of discharge to the present time.

G. H. Straughton, in an affidavit filed September 19, 1881, testifies that he worked with claimant for a few days in 1853 on the railroad, and at that time he was sound, and able to make a full hand, and his eyes were sound.

J. L. Adams, in an affidavit filed September 19, 1881, testifies that he knew claimant well before the war, and "to my certain knowledge he never had any disease or soreness of the eyes."

J. T. Matlock, who was captain of claimant's company, testifies that claimant, while in the line of duty at Gallatin, Tenn., about January 15, 1863, by reason of exposure, contracted disease of the eyes, which has resulted in total loss of one eye, and permanent injury to the other, rendering him unable to earn his living. He was sound when he entered the service. "The above is from personal knowledge from being present."

It is shown that Dr. Warner, of Danville, claimant's regular family physician, is dead.

W. J. Hoadley, M. D., whose testimony is referred to above, is the United States examining surgeon at Danville, Ind., and in an examination of claimant, in pursuance of an order from the Pension Office, February 28, 1881, says:

"There is an aggravated grade of chronic inflammation of the conjunctiva of both lids and balls, which has nearly destroyed the right eye; with the left applicant can see so as to get around and perform some labor. His eyes are evidently in a bad condition."

While the voluminous testimony in this case is conflicting as to the origin of the soldier's disability, the preponderance of the testimony is clearly in favor of the freedom of claimant from disease of the eyes prior to and at the time of his enlistment in the military service of the United States. He is shown to have been a good soldier, and is now old and infirm and in indigent circumstances. Your committee therefore recommend the passage of the accompanying bill.

The committee can but believe that had the additional evidence hereinbefore referred to been considered in the final review of the case the result would have been favorable to claimant in the Pension Office. It was not so considered, because it bears date subsequent to that of the rejection, which seems to have been based on the report of the special examiner.

The bill is therefore reported to the Senate with a recommendation that it do pass.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1092.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1885.—Ordered to be printed.

Mr. WILSON, from the Committe on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 2908.]

*The Committee on Pensions, to which was referred the bill (H. R. 2908) granting a pension to James McManus, has examined the same, and reports:*

That the Commissioner of Pensions, in his letter transmitting the papers in this case to the committee, says:

The claim has been rejected on the ground that applicant has not been disabled from alleged causes since discharge.

An examination of the evidence in the case as it is before the committee renders it difficult to understand how such a conclusion was arrived at. The report of the Committee on Invalid Pensions of the House of Representatives embraces a fair presentation of the facts in the case as disclosed by the evidence, and is here quoted at length as follows, viz:

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2908) granting a pension to James McManus, having had said bill under consideration, submit the following statement of facts:*

Claimant enlisted August 1, 1861, and served as a private in Company B, Twelfth Illinois Volunteers, until May 5, 1864, when he was discharged on a certificate of disability.

He filed his application for a pension December 31, 1879, alleging that at the siege of Corinth, Miss., in the month of May, 1862, while lifting logs on the breastwork, he incurred a right inguinal hernia, and contracted disease of the heart and rheumatism.

James Harrington, a nurse in post hospital at Corinth, Miss., saw claimant in said hospital just after the last battle of Corinth, in October, 1862, when he was suffering from an ailment in his legs, and was unable to wait on himself, and affiant had to wait on him.

John Clark, a comrade of claimant, knew him in 1863, and remembers that he was sick and treated in the Overton Hospital in Memphis from some time in September to the middle of October, 1863.

B. F. Jones, of Poweshiek County, Iowa, states that claimant was in his charge at the poor-farm in and for said county about eighteen months during 1877 and 1878, during which time he was totally unable to make a living by manual labor, on account of the disabilities hereinbefore mentioned, for which he was frequently treated, but being of a chronic form, did not yield to medical skill.

Dr. A. J. Hare, of Milwaukee, Wis., states that he was late surgeon at the Soldiers' Home near that city, and that claimant was under his medical care at intervals for four years prior to October, 1882, for chronic valvular disease of the heart and chronic bronchitis, and that claimant also suffered from inguinal hernia and was totally disabled.

Dr. S. J. F. Miller, also a surgeon at said Soldiers' Home, states that the records of the hospital show that claimant was admitted to the home August 5, 1878, with dis-

ability as follows: Right inguinal hernia, valvular lesions in the heart, rheumatic trouble, and in December, 1880, he was troubled with chronic bronchitis, having a very severe cough, and was emaciated and very weak.

The reports from the Surgeon-General's Office show that claimant was under treatment in regimental hospital at different dates from May, 1862, to June 3, 1863, for intermittent fever, dysentery, and rheumatism.

August 24, 1881, claimant was examined by the Milwaukee Board of Examining Surgeons, who reported that no disability existed.

June 13, 1881, claimant was examined by the Board of Examining Surgeons at Fond du Lac, who reported the existence of inguinal hernia, emaciation, and debilitation.

Upon this testimony the examiner made a favorable submission for the allowance of a pension with the degree of disability as one-half from 1864 to 1874, as three-fourths from 1874 to 1868, and as a total from 1878 to the time of submission.

But the case was finally rejected upon the ground that no disability had existed since the time of discharge.

Your committee, however, believe that the mere opinion of the Milwaukee Board of Examining Surgeons, upon one brief examination, ought not to stand against the certificate of disability given claimant at the time of his discharge, the testimony of comrades who knew of his sickness while in the service, the regimental hospital records showing treatment for over a year, the keeper of the poor-house in Iowa, who had him under treatment for eighteen months, the two surgeons at the Soldiers' Home, near Milwaukee, who treated him for several years, the Fond du Lac Board of Examining Surgeons, and finally the opinion of the pension examiner, who submitted the case for approval, upon the evidence.

Wherefore we report favorably, recommend the passage of the bill, and ask that said committee be discharged from its further consideration; provided, however, that said bill be amended by striking out the words "his pension to date from May fifth, anno Domini eighteen hundred and sixty-four, the date of his discharge from the United States Army," and adding to said bill the words "from and after the passage of this act."

Concurring in the conclusions of said report, the committee reports the bill to the Senate with a recommendation that it do pass.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1093.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 3565.]

*The Committee on Pensions, to which was referred the bill (H. R. 3565) granting a pension to William Eurele, has examined the same, and reports:*

That the statements of the facts and circumstances of this case are correctly presented by the report of the Committee on Invalid Pensions of the House of Representatives, made to that body, and which is here quoted, as follows, viz:

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3565) granting a pension to William Eurele, submit the following report:*

William Eurele was a private in Company A, Tenth Connecticut Volunteers; he enlisted September 21, 1861, and was discharged August 25, 1865. He claims that he contracted rheumatism at Roanoke Island, North Carolina, February 6, 1862, while in an engagement, marching through and lying in a swamp; he was put in an open bed, forgotten, and left there for two days and nights, when he was discovered and taken to a hospital at Roanoke Island, and later carried to New Berne, where he remained in hospital two months or more; from about August, 1862, to September, 1865, was not troubled with rheumatism; was treated by Dr. Stockman, who is dead, from 1865 to 1874, and from 1875 to present time by Dr. Ballou.

Claimant cannot remember who treated him in service.

The evidence in this case is strongly in favor of soldier, and is as follows:

Capt. Benjamin S. Pardee, New Haven, Conn., testifies that claimant was sound and free from rheumatism at enlistment, and corroborates soldier's statement as to incurrence of rheumatism.

John Widman, of New Haven, testifies: "Knew claimant for twenty-six years prior to enlistment; he was a blacksmith; was strong and free from rheumatism."

Dr. Frederick Ballou, of New Haven, Conn., testifies: Attended and prescribed for claimant for inflammatory rheumatism from six to eight weeks every summer since 1875. After claimant's discharge, in 1865, and while under my treatment, his condition was such that he was unable to do any kind of hard work.

David Kittler and John Widman, of New Haven, testify that immediately after claimant's discharge, in 1865, he was under treatment of Dr. Stockman for rheumatism, and continued under his treatment until the doctor died, in 1875. The claimant on his return from the Army, and ever since, has suffered with rheumatism, be- most of the time unable to do any manual labor. That they know these facts from an intimate acquaintance with him.

George Mayer, of New Haven, testifies: Has known claimant for twenty-five years; that from 1865 to present time he has been afflicted with rheumatism; was a daily acquaintance, and knows he was obliged to abandon blacksmithing on that account.

Joseph Wagner, of New Haven, testifies: "Known claimant since 1865; from 1865 to 1875 was an intimate acquaintance, and did business with him. On account of rheumatism he was obliged to abandon business (blacksmithing), and was laid up more or less during that time, and he thinks that claimant is not able to work more than one-quarter of the time.

Eurele's claim was rejected by the Department by reason of his admission in his declaration that he was not troubled from about August, 1862, to September, 1865, thereby breaking the record of continuance of disability; but the evidence all tends to show that upon his return, or within a month thereafter, he was attacked with the old disease, and it has been continuous ever since, compelling him to abandon his trade; and it is nothing but a fair construction to attribute the same to an honorable service in the Army of four years' duration, and your committee therefore report favorably, and recommend the passage of the accompanying bill.

Concurring in this report, your committee is of opinion that the bill ought to pass. It is therefore reported with that recommendation.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1094.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 6084.]

*The Committee on Pensions, to whom was referred the bill (H. R. 6084) to restore the name of Walter H. Crow to the pension roll, has examined the same and reports:*

That the report of the Committee on Invalid Pensions of the House of Representatives very clearly shows that this bill ought to pass. That report is as follows, viz:

*The Committee on Invalid Pensions, to whom was referred a letter of the honorable Commissioner of Pensions, under the provisions of the joint resolution approved May 29, 1830, recommending that an act be passed to restore the name of Walter H. Crow, late a sergeant of Company K, Thirty-third Indiana Volunteers, have had the same under consideration, and beg leave to report as folllows:*

The following is a copy of the letter referred to:

DEPARTMENT OF THE INTERIOR, PENSION OFFICE,
*Washington, D. C., February* 20, 1884.

SIR: Under the provisions of the joint resolution of Congress, approved May 29, 1830, I have the honor to forward herewith the papers in the case of William H. Crow, late sergeant of Company K, Thirty-third Indiana Volunteers, certificate 117419, to consider the propriety of restoring pensioner's name to the pension roll by special act of Congress, subject to the provisions and limitations of the general pension laws, for the reason that his claim for restoration appears to be meritorious and deserving, but cannot be allowed under the existing law.

It appears that Mr. Crow was originally pensioned June 27, 1871, for total blindness, at $8 per month, from September 20, 1864, the date of his discharge; at $25 per month from November 29, 1867; and at $50 per month from June 4, 1874, which rate he received until December 6, 1875, when payment was suspended pending an investigation as to whether he was sound and free from disease or injury of the eyes at enlistment; and upon the evidence adduced by special examiners his name was subsequently dropped from the pension roll on the ground that some form of eye disease had existed prior to enlistment.

In view of the soldier's helpless condition, no expense has been spared to afford him every opportunity of establishing his claim under the general law, and thorough and exhaustive examinations of numerous witnesses have been conducted by special examiners, and it is believed that the true history of the case has been reached; and from an examination of the various reports I am convinced that Mr. Crow's case is a proper one for equitable relief through the medium of your honorable body. He was a soldier for three years, and there is nothing in his war record adverse to soldierly conduct, and he has been totally blind since 1867.

I therefore invite your attention to the papers, and submit the same to your consideration with my recommendation that his name be restored to the pension roll by special act of Congress.

Very respectfully,

W. W. DUDLEY,
*Commissioner.*

Hon. C. C. MATSON,
*Chairman Committee on Invalid Pensions, House of Representatives.*

This committee cannot understand why he was dropped, upon the mere fact that some form of disease of eyes existed prior to enlistment, when the Government accepted his services for three years, and he did the duty of a soldier so faithfully and well; but such seems to be the fact. We unhesitatingly recommend the passage of the accompanying bill.

In addition to the foregoing it may be said that the Acting Commissioner of Pensions, in a letter of date June 20, 1884, transmitting the papers in the case to your committee, said: "I have the honor to forward herewith the papers in the case of Walter H. Crow, late sergeant of Company K, Thirty-third Maryland Volunteers, certificate No. 117419, and to inform you that the same were recently transmitted to Hon. C. C. Matson, chairman Committee on Invalid Pensions, House of Representatives, to consider the propriety of pensioning the applicant by special act of Congress, inasmuch as his claim is meritorious and deserving, but cannot be allowed under the provisions of the general law."

The bill is herewith reported with a recommendation that it do pass.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1095.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1885.—Ordered to be printed.

Mr. WALKER, from the Committee on Indian Affairs, submitted the following

# REPORT:

[To accompany bill H. R. 3008.]

The Committee on Indian Affairs, to whom was referred House bill 3008 and Senate bill 1381, report that the facts fully justify the report made by the House Committee on Indian Affairs, and they adopt the same. Said report is as follows:

This bill with the affidavits and other papers upon which the committee base this report, was presented to Congress in a message from the President of the United States. (Ex. Doc., No. 13, Forty-eighth Congress.)

Prior to May 1, 1878, J. H. Babb, Henry Boyle, William Harris, and Levi Harris settled upon lands in Duck Valley, on the Omghee River, Elko County, Nevada, which lands were then open to settlement as other Government lands, and made valuable improvements thereon, but never perfected their title thereto.

On or about the said 1st day of May, 1878, the said Duck Valley, including the lands upon which these settlers had made improvements, was set apart by Executive order as an Indian reservation for the Shoshone Indians, who took possession of the same, and the said settlers were compelled to abandon their settlements and improvements, which improvements they estimated in making claim for payment for the same to the Department of the Interior, as follows: J. H. Babb, $200; Henry Boyle, $4,000; William Harris, $200; Levi Harris, $8,000.

These claims were fully investigated by the Commissioner of Indian Affairs, who, in a report to the Secretary of the Interior, dated April 1, 1880, appraises the value of permanent improvements made by these settlers as follows: J. H. Babb, $200; Henry Boyle, $1,500; William Harris, $200; Levi Harris, $3,500; which amounts are the same as those in this bill. These settlers have made improvements upon lands open to settlement, and have been deprived of their improvements by the action of the Government, and are equitably entitled to payment for the same.

Your committee recommend the passage of the bill.

In which recommendation this committee concurs, and recommend the indefinite postponement of Senate bill 1381.

# THE SENATE OF THE UNITED STATES.

JANUARY 28, 1885.—Ordered to be printed.

rom the Committee on Claims, submitted the following

## REPORT:

[To accompany bill S. 2117.]

*on Claims, to whom was referred the bill (S. 2117) for the f of Mathilda Victor, report thereon as follows:*

pon which this claim is predicated are stated in the peti- aimant presented to the Fortieth Congress, which was e Senate Committee on Claims, and reported from that Senator Willey February 3, 1869 (Report 199). Said follows:

list, Miss Mathilda Victor, of Sandusky City, Ohio, respectfully repre- is a loyal citizen of the United States; that at the commencement of n she resided in the town of Baton Rouge, State of Louisiana, and ied certain property in said town, known as St. Mary's Female Acad- on devoted to *educational* and *charitable* purposes.

inued to occupy the said property as a school until the 27th day of the buildings were damaged by shell, and the school broken up by it of the town by the United States naval forces, commanded by Ad- agut, when she was compelled to leave.

ut the first day of June, 1862, the said property was taken possession United States hospital by order of General Williams, and was retained until August of that year.

mber of 1862, upon the reoccupation of Baton Rouge by the United e property was again seized by governmental authority as quarters and its use and occupancy for such purpose continued until Decem- hich time and up to the 24th day of September, 1864, the control and l property was held by the Government as a depot for quartermaster stores and as temporary quarters for troops.

list further represents that said property was put to the severest use, greatly damaged.

of survey, convened by order of the commanding general of the De- Gulf, in September, 1863, assessed the damage to said property at $2,300 as the amount justly due her as rent for said property, for purpose, to the time of the final session of the board, September 18,

overnment continued to hold and use the said property, on the appli- nemorialist a second board of officers was convened by order of the ommanding the Department of the Gulf, dated March 24, 1864, to in- etermine the amount of damages and rent due your memorialist for damage done to said property; that on the 27th of May, 1864, this port of its findings, of which the following are extracts:

RECAPITULATION.

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| n the United States for rent | $2,500 |
| the destruction of the cottage building by fire | 2,400 |
| n the United States for damages to and destruction of the acad- and improvements | 11,600 |
| unt of rent and damages due from the United States | 16,500 |

* * * * * *

e commission concludes that the larger portion of the damages done

to the academy building has been inflicted since September, 1863, when the former commission, appointed to investigate the same case, submitted a report upon the same.

The reports of both boards of officers were approved by the general commanding the district, the department, and the post.

By order of the major-general commanding your memorialist was paid the amount of rent awarded by the second board of survey, viz, $2,500, which only included amount up to May 1, 1864.

Although the reports of both boards have been most heartily approved by those in authority, and by them indorsed as just and due your memorialist from the Government, she has been unable to have her claim for damages and balance for rent settled by any Department of the Government, because of lack of authority of Department officers in the premises and of there being no appropriation from which such payment can be made; and your memorialist has been informed that relief can be obtained only through the Congress of the United States, and therefore prays that a bill may be passed giving her this relief—that is to say, the amount of damages awarded by the board of officers convened by order of the commanding general dated March 24, 1864, $14,000; and rent for the building and property from May, 1864, the date to which she was paid rent, to September of that year, when the property was released by the United States and torn down, $2,500.

Your memorialist also prays that damages to the amount of $2,500 be allowed her for mutilations to the trees, grounds, and buildings consequent upon its use as a stable and depot for a cavalry regiment from May to September, 1884.

And your memorialist further prays that interest be allowed to her upon her claim from the date of the acknowledgment of its being a just debt due her from the United States by the recognized and appointed authorities of said Government.

The equity of this will be apparent upon an examination of the various authenticated reports and papers herewith submitted.

And finally, in support of the justice of her petition and the grounds upon which she asks protection and relief, your memorialist asks your consideration of the accompanying reports of the findings of the two boards of survey referred to and the indorsement thereon; and also presents indisputable evidence of her persistent loyalty and patriotic devotion to the country.

The loyalty of the claimant is fully established by the evidence filed with her petition. The circumstances under which her property was occupied by the Government, and the character of such occupation will appear from the following:

In a letter from Rear-Admiral D. G. Farragut, dated September 22, 1865, which is not addressed to any one, and seems to be a general letter of recommendation, intended for Miss Victor's use in the prosecution of her claim, he says, speaking of Miss Victor:

She was driven out of Baton Rouge by my guns when my boat was fired upon by the guerrillas. She sought refuge on board my ship, and I took her down to New Orleans, with her sister and her companion, a French lady.

In a letter of similar character, dated August 23, 1862, Lieut. Col. Henry H. Elliott, First Louisiana United States Volunteers, says:

The school having been interrupted in consequence of the presence of Federal troops, and all the scholars being withdrawn by their parents (all sympathizers with secession), Miss Victor was thrown suddenly out of employment, and, of course, her income stopped; not only that, but her debtors either dishonestly refused to pay bills for tuition or tendered the money in Confederate notes.

Immediately after General Williams landed, Miss Victor called on him, and through me tendered the use of her academy for soliders, and also offered her services as nurse.

I know of her house having been used for some weeks, and her servant having done all the cooking for some dozen patients, without any compensation.

The building was afterwards hired by Quartermaster Perce, and the bedding and furniture, of which there was a considerable quantity, taken for the use of the Army.

In an affidavit of Miss Victor, verified June 17, 1884, and filed with the papers in the case, she states:

That she is the same person who has filed a petition and in whose behalf a bill for relief has been introduced in the United States Senate and referred to the Committee on Claims; that after Baton Rouge, La., was taken by the Union forces, she admitted to her boarding-house to her academy a number of sick and wounded soldiers for care

and treatment; that said building contained about forty rooms and was admirably adapted for use as a hospital.

Affiant states that her loyalty was well known to the officers of the United States Army and Navy, and that the taking possession of her building by the Government was after consultation with her and with her consent; that her premises were not seized by the officers of the Government and held against her consent; that the necessity for its use as a hospital was urgent and pressing, and as a loyal citizen she granted the request of the officers of the Government and gave them possession of the place which was used as a hospital and for other purposes, as stated in the petition.

Affiant is satisfied that the officers in charge would not have taken possession of her place contrary to her wishes, as they all manifested a disposition to protect her rights; and that as a recognition of an existing contract for pay for the use and damages of the premises, she cites the fact that she has been paid $2,500 rent.

Affiant further states that she rendered every possible service in the care of the sick and wounded soldiers of the Union Army in her buildings, where she was provided with bedding, bed clothes, cooking utensils, dishes, &c., for the comfort of at least 150 persons, and that she spared no labor or care in providing for the wants and restoration to health of the Union soldiers; that at that time she had a large and delightful place fully furnished and provided with all necessary comforts, and that the officers and soldiers were glad to avail themselves of the friendly care which she was able to bestow upon them; that she was paid nothing for all these services and she now asks that they be considered in connection with her just claim for pay for the use and the damage, through use, of her academy and other buildings.

The following is the concluding portion of the report of the Board of Survey, convened in September, 1883, referred to in the petition of the claimant:

The Board concludes as follows:

1. That the claimant, Miss Matilda Victor, is the legal owner of the property situated on North street, in city of Baton Rouge, La., and was at the time of the alleged appropriation and destruction that the claimant, Miss Victor, is of undoubted loyalty.

2. That the cottage building, out-houses, and fences were destroyed by burning the same by order of Colonel Payne, on or about the 15th day of August, 1862, who was then in command of the United States forces at this post.

3. That the seminary building and appurtenances was used for hospital purposes, under the direction of the United States military authorities during portions of the months of June, July, and August, 1862, a period of two months.

4. That the same premises were afterwards used and appropriated as quarters for contrabands (negroes), to wit: From December 25, 1862, and have been since that date, and are now used as such.

5. That the seminary building and appurtenances have been greatly injured by shells from the gun-boats, and bad usage, so much so that they are entirely unfit for hospital or educational purposes. That the whole property has been otherwise greatly injured and destroyed.

In consideration thereof, and after a thorough investigation and due deliberation, the Board considers that the claimant is entitled to compensation for the destruction of cottage, &c., for the injury to the same for hospital and contraband quarters, for the destruction of outhouses, fences, shrubbery, and trees on the seminary premises, and recommend that the following allowances be made, viz:

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| Cottage, &c | $2,400 |
| Damages to seminary buildings, fences | 6,000 |
| Rent of building for hospital two months, and contrabands' quarters nine months | 2,300 |
| Total | 10,700 |

A second board of officers was convened by order of Maj. Gen. N. P. Banks, commander of the Department of the Gulf, March 24, 1864, to examine and report upon the claim. The board met at Baton Rouge, took testimony, and made a report, which bears date May 19, 1864.

The following are the findings made by said commission:

There being no further evidence to introduce, the commissioners then proceeded to deliberate upon the facts as herein set forth, and to determine upon the several points in question as directed in the special orders hereto prefixed; and having considered and deliberated upon all the evidence adduced, and after a careful examination and inspection of the premises and the property in question, for which Miss Mathilda

Victor claims damages from the United States, the commission has determined upon the following conclusions, viz:

1. That the claimant, Miss Matilda Victor, is the legal owner of the property known as the St. Mary's Female Academy, and the grounds thereto belonging, situated in the town of Baton Rouge, Louisiana, and bounded north by private land, east by St. Mary's street, south by North street, and west by St. Hypolyte street; also, the ground situated on the west side of the aforesaid piece, bounded north by private lands, east by St. Hypolyte street, south by North street, and west by the United States lands, as set forth in the copy of the warantee deed hereto attached and marked A: also a cottage house, situated on the last-described land at the time the town of Baton Rouge was occupied by the United States forces in June, 1862: *Provided*, That there is a mortgage or lien on said property or lands to the amount of $3,240, together with the interest thereon at eight per cent.

2. That previous to the rebellion the academy building and cottage building were in good condition, and that there were fine improvements upon the grounds thereto belonging, and that the total value of the said property, exclusive of the land, amounted to about $15,500.

3. That during the rebel occupation of Baton Rouge the academy buildings and the grounds were occupied for educational purposes till the month of May (27th day), 1862, when the United States forces took possession of the town; and during such rebel occupation (from August to December, 1862) the academy building was occupied, in part, as a dwelling by private parties for the period of three weeks, more or less, and that the same stood vacant for the balance of the time.

4. That by the authority of Brigadier-General Williams the academy building was occupied, in part, as a hospital for United States troops in the months of June, July, and August, 1862, and that by the authority of the commanding officer or officers, respectively, of the United States troops at the post of Baton Rouge, Louisiana, the said academy buildings were occupied as quarters for "contrabands" or negroes, from the month of December, 1862, or January, 1863, for a period of more than one year, when they were vacated by the "contrabands," and were left exposed to destruction from the vandal hands of negroes and from the troops, or temporarily occupied by the United States troops as quarters.

5. That rent is due from the United States for the academy buildings for the period of sixteen months.

6. That the amount due from the United States for rent is $2,500.

7. That all the academy buildings and the cottage house, and the many improvements upon the grounds surrounding and thereto belonging, have been damaged to the extent of almost total destruction by the United States military authorities, and by the United States troops and "contrabands," without authority, and by other circumstances consequent upon the state of war and the occupation of rebel territory.

8. That the United States Government or its officers are responsible for damages done to the said property of Miss Matilda Victor, in and for the following amount, viz:

For destruction of cottage house on the corner of Hypolite and North streets, and out-houses, fences, and other improvements thereto belonging, $2,400.

For damage to and destruction of the academy building, and the out-houses, fences, shrubbery, and other improvements appertaining thereto, $11,600.

RECAPITULATION.

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| Amount due from the United States for rent | $2,500 |
| Amount due from the United States for destruction of the cottage building, &c., by fire | 2,400 |
| Amount due from the United States for damages to, and destruction of, the academy building, improvements, &c | 11,600 |
| Total amount of rent and damages due from the United States | 16,500 |

And finally, the commission concludes that the larger portion of the damages done to the academy buildings, or premises, has been inflicted since September, 1863, when the former commission appointed to investigate the same case submitted a report upon the same, which report, indorsed by the commanding general of the Department of the Gulf, is hereto attached and marked B.

And it further appears from an order, a copy of which is hereto attached and marked C, issued by Maj. Gen. N. P. Banks, commanding Department of the Gulf, that the claimant, Miss Victor, has already received from the quartermaster's department the payment of the sum of $1,500 on account of her said claims against the Government. The commission therefore recommends that this payment of $1,500 be deducted from the final payment of the said claims as herein set forth.

In answer to a letter addressed to the honorable Secretary of War by the chairman of the Committee on Claims, requesting to be furnished

with such information concerning this claim as might be afforded by the files of the Department, the following communication was received:

WAR DEPARTMENT, *Washington City, January* 9, 1885.

SIR: I have the honor to acknowledge the receipt of a letter, dated the 18th of June last, from the Committee on Claims, by its clerk, inclosing S. 2117, Forty-eighth Congress, first session, a bill "for the relief of Mathilda Victor," and requesting that the committee be furnished with such information concerning the subject-matter of the bill as may be afforded by the files of this Department.

In reply I beg to inform you that it appears from the papers on file here in the case that in 1863 a board of officers was appointed to investigate this subject, and submitted a report, bearing date of September 18, 1863, in which they recommended that Miss Victor be allowed:

| | |
|---|---|
| For destruction of cottage | $2,400 |
| For damages to seminary, building, fences, &c | 6,000 |
| For rent of building for hospital during two months (being portions of June, July, and August, 1862), and contraband quarters, nine months (from December 25, 1862) | 2,300 |
| Total | 10,700 |

In 1864 another board was appointed to investigate the subject and found that there was due to Miss Victor from the United States as follows:

| | |
|---|---|
| For rent | $2,500 |
| For destruction of cottage, &c | 2,400 |
| For damages to and destruction of academy building, &c | 11,600 |
| Total | 16,500 |

The board further found that Miss Victor had already received $1,500 from the Quartermaster's Department on account of her claim against the Government, and recommended that said sum be deducted from her claim, thus leaving due to her the sum of $15,000. They based their award of a larger amount than that awarded by a former board upon the fact that subsequently additional damages to the property were inflicted.

From a letter of General N. P. Banks, commanding the Department of the Gulf, dated at New Orleans, August 24, 1863, it is stated that the property of Miss Victor is "still occupied" and that "she has been unable to obtain compensation for loss or use." This letter is addressed to no one, and appears to be a letter of recommendation in behalf of Miss Victor's claim.

In a pencil notation on the back of an official envelope containing the letter last above mentioned, and other papers in the case, it is stated that she (Miss Victor) has been paid for rent from May, 1862, to January, 1864, when the Government gave up the house." This notation is dated "W. D., Oct. 4, 1865."

In a report (indorsement) of the chief quartermaster, Department of Louisiana (Col. S. B. Holabird), dated December 28, 1865, he says:

"It is not known that any rent has been paid for this building (academy building), and there is every ground for believing that none has been paid. The officers have been changed so often that the evidence of Miss Victor alone will settle this point. The rent of the property is estimated at $100 per month."

General Canby, commanding the Department of Louisiana, in a report bearing date of January 8, 1866, states that it is impossible to obtain from his records specific information as to the period of occupation or the amounts that have been paid for rent; that the subject has been often before him; that General Banks, after investigation, directed the payment of $2,500 for rent during the period of the occupation of the property by the United States; that the claim was subsequently investigated by himself, and either upon additional evidence as to the period of occupation or the inadequacy of the rent previously awarded, he (General Canby) ordered the payment of an additional sum of (he thinks) $1,050 as rent. He believes that the sums awarded for rent, amounting in the aggregate to about $3,600, embrace the whole period for which rent can justly be claimed; but he cannot, from any information within his reach, give more exact information. He remarks that it is understood that Miss Victor has sold the property for which she claims damages, and that this question should be inquired into before any final award is made.

It may be remarked that the papers in the case, letters, reports, &c., fully attest the loyalty of Miss Victor.

Very respectfully, your obedient servant,

ROBERT. T. LINCOLN,
*Secretary of War.*

Hon. ANGUS CAMERON,
*Chairman Committee on Claims, United States Senate.*

The claim for damages to claimant's property will be first considered.

It appears from the report of the first board of survey that "*The cottage building, out-houses, and fences were destroyed by burning the same by order of Colonel Payne, on or about the 15th day of August, 1862, who was then in command of the United States forces*" at that post.

It is fair to presume, from the foregoing, that such destruction was under urgent and imperative military necessity, in which case the destruction was lawful, and the Government is not liable therefor. If the property was destroyed without such necessity, the officer ordering such destruction would be liable for the same and not the United States.

It further appears from the same report that the seminary buildings and appurtenances were injured "*by shells from the gunboats and bad usage,*" and in the report of the second board of survey it is stated—

> The academy buildings and the cottage house, and many improvements upon the grounds surrounding and thereto belonging, have been damaged to the extent of almost total destruction by the United States military authorities and by the United States troops and contrabands *without authority*, and by other circumstances consequent upon the state of war and the occupation of rebel territory.

This committee has repeatedly held that the United States is under no obligation to make good losses to its citizens sustained by reason of the unlawful acts of individuals, including depredations committed by soldiers and others in the military service of the Government. This principle was stated by the chairman of this committee in report No. 584, to accompany S. 2025, made at the first session of the present Congress, as follows:

> When private property is destroyed by the unlawful acts of individuals, governments seek to give redress by civil action or to punish for acts which are criminal, but they do not indemnify the parties who may lose by such depredations. If a loss is sustained by arson, burglary, theft, robbery, or by an act which constitutes only a trespass, governments do not make good the loss; and this is so whether the illegal acts are done by one or many persons. Nations apply the same rule when their citizens suffer losses by a foreign or domestic enemy. They are no more bound to repair the losses of citizens by the ravages of war than to indemnify them against losses by arson or other individual crimes or the destruction of flocks by wolves.

The portion of this claim which is for injury to and destruction of the claimant's property cannot be allowed.

In considering the claim for rent for the premises it must be borne in mind that claimant's property was situated within a State whose citizens were in open insurrection against the United States, and the occupation of her property by the military authorities was for necessary military purposes. And while it appears that the use of her property was tendered to the officers in command of the United States forces, it also appears that her school had been broken up by a state of actual war, and she had been compelled to flee from Baton Rouge by fear of personal violence. Her previous consent was not necessary to the occupation of her property under such circumstances by the United States troops.

In the opinion of your committee no contract is shown by the evidence filed in support of the claim for the payment of rent for the property by the United States, and where no such contract is shown, as a rule, such claims have been disallowed by your committee.

The possession and use of the premises in question by the Government for hospital and other purposes appears to have been occasional and for limited periods only.

It appears from the report of the first board of survey that Miss Victor had been paid on account of her claim (presumably for rent) prior to the date of said report, $1,500. It further appears from her petition that she has been paid $2,500, awarded to her by the second

ard of survey for rent, and, as your committee understand, without e deduction of the $1,500 previously paid to her. It seems probable so from the report of General Canby, commanding the Department of uisiana, dated June 18, 1866, referred to in the letter of the Secretary War, hereinbefore set forth, that Miss Victor has also been paid a rther sum of $1,050, on account of rent for her premises. At all ents, rent is only claimed now from May, 1864, when the second board survey reported upon her claim, to September of the same year, when e buildings were torn down by parties who had purchased them from e claimant. The evidence relied upon to support this portion of the im is an affidavit of Edward Martindale, late colonel Eighty-third egiment, United States Colored Infantry, verified August 18, 1866, in ich he states—

That during the spring and summer of 1864, and until the month of September of at year, the United States Government was in possession of the whole of said semary premises, and, according to deponent's best recollection and belief, the said vernment used and occupied during the period aforesaid the house as a depot for artermasters' stores, and the ground and a part of the buildings as a cavalry depot camp.

In a sworn statement made by Colonel Martindale, June 3, 1863, and found among e papers in this case, he says of this same property:

"It was used for hospital purposes for storage; was a long time occupied by command the military authorities as a camp depot for contrabands. In the fall or winter of 63–1864, the authorized use and occupation of the buildings for these purposes, parcularly by the contrabands, caused great damage to the improvements and buildgs. It was of such a nature that the buildings were thereby *nearly destroyed*."

The award of damages made by the second board of survey, May, 864, was upon the basis of the "almost total destruction" of the buildgs and improvements, and it is stated in the report—

That said academy buildings were occupied as quarters for contrabands or negroes om the month of December, 1862, or January, 1863, for a period of more than one ar, when they were vacated by the contrabands and were left exposed to destrucon from the vandal hands of negroes or temporarily occupied by United States troops quarters.

General Canby reported in 1866 that he believed the sum which had en awarded to Miss Victor for rent embraced the whole period for ich rent could be justly claimed. Col. S. B. Holabird, as is shown by letter of the Secretary of War, heretofore referred to, estimated the t for the property for the entire period of occupation by the Governnt at $100 per month.

The consideration paid for the property, which appears to have been eady improved and used for school purposes, as stated in the deed the same, which is found among the papers in the case, was $10,500. is was in August, 1856. The second board of survey reported that value of the property previous to the rebellion, exclusive of the land, s $15,000. One hundred dollars per month appears to be liberal rent such property after it had been rendered comparatively useless for hool purposes.

Your committee are, therefore, of the opinion that not only no conact for the payment of rent for the property by the United States is own by the evidence, but that occupation of the property by the Govnment subsequent to May, 1864, is not satisfactorily established, and at the claimant has already received from the United States all that n be justly claimed by her as rent for the property.

Your committee, therefore, report back the bill and recommend that do not pass.

TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1097.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 28, 1885.—Ordered to be printed.

. HOAR, from the Committee on the Judiciary, submitted the following

## REPORT:

[To accompany bill H. R. 6771.]

The Committee on the Judiciary having had under consideration use bill 6771, report the same back with an amendment and recom- nd its passage.

The bills referred to relate to, and attempt to provide for, the ascer- nment and settlement of the debts due the United States by the ntral Pacific Railroad Company, and the Western Pacific Railroad mpany, the Union Pacific Railroad Company, the Kansas Pacific ilroad Company, the Central Branch Union Pacific Railroad Com- ny, and the Sioux City and Pacific Railroad Company.

n the investigation of this most important matter the Committee ve endeavored to devise some means by which the Government could t secure the payment of the debt due the United States by the sev- l companies named, and at the same time do justice to the compa- s and parties interested besides.

t may be well, for a moment to revert to the reasons why the Govern- nt consented to be connected with these enterprises, and the causes ich lead to the impressing upon them the character, in any way, of tional undertakings. These are most forcibly stated and set forth by dge Davis, speaking for the Supreme Court of the United States, in ited States *vs.* Union Pacific Railroad (91 U. S. Rep., 79, *et seq.*), follows:

Many of the provisions in the original act of 1862 are outside of the usual course legislative action concerning grants to railroads, and cannot be properly construed hout reference to the circumstances which existed when it was passed. The war the rebellion was in progress, and owing to complications with England the coun- had become alarmed for the safety of our Pacific possessions.

The enterprise was viewed as a national undertaking for a national purpose, and public mind was directed to the end in view rather than to the particular means securing it. Although the road was a military necessity, there were other reasons ive at the time in producing an opinion for its completion besides the protection n exposed frontier; there was a vast unpeopled territory lying between the Mis- ri and Sacramento Rivers which was practically worthless without the facilities rded by a railroad for the transportation of persons and property. With its con- ction the agricultural and mineral resources of this territory could be developed, lements made where settlements were possible, and thereby the wealth and power he United States largely increased; and there was also the pressing want, in e of peace even, of an improved and cheaper method for the transportation of the ls and of supplies for the Army and the Indians.

t was in presence of these facts that Congress undertook to deal with the subject this railroad. The difficulties in the way of building it were great, and by many elligent persons considered insurmountable.

The scheme for building a railroad 2,000 miles in length, across mountains, over deserts, and through a country inhabited by Indians, jealous of intrusion upon their rights, was universally regarded at the time as a bold and hazardous undertaking. It is nothing to the purpose that the apprehended difficulties in a great measure disappeared after trial, and that the road was constructed at less cost of time and money than had been considered possible. No argument can be drawn from the wisdom that comes after the fact.

The project for building the road was not conceived for private ends, and the prevalent opinion was that it could not be worked out by private capital alone. It was a national work, originating in national necessities, and requiring national assistance.

The primary object of the Government was to advance its own interests, and it endeavored to engage individual co-operation as a means to an end—the securing a road which could be used for its own purposes.

These corporations are, then, except the Central Pacific Railroad, creatures of the United States. They were brought into existence for public purposes, and their property, to a large extent, is devoted to public uses. Many severe accusations have been brought before the committee against these companies, as to their management and control, and as to exorbitant exactions in many instances, and invidious distinctions made by them in the direction of their affairs. Of the truth of many of these charges the committee have no doubt, but they do not consider these as bearing largely on the question of the relations of the United States as a creditor endeavoring to obtain adequate security for its debt. This is to them simply a question of how to ascertain the indebtedness of these companies to the Government and secure its payment, and not to regulate the freights and charges of these companies, propositions more directly and naturally connected with other and different measures. There can be no doubt very gross abuses have been committed, but with them the committee have not thought they were concerned in this proceeding further than as they touched or affected the indebtedness to the Government and its security. In this connection the language of Chief-Justice Waite, speaking for the Supreme Court in the sinking-fund cases (99 U. S. Reps., 723), will not be considered inappropriate:

Without undertaking, in any measure, to cast censure upon those by whose matchless energy this great road was built, and, as if by magic, put into operation, it is a fact which cannot be denied, that when the road was in a condition to be run its bonds and stocks represented vastly more than the actual cost of the labor and material which went into its construction. Great undertakings like this, whose future is at the time uncertain, requiring as they do large amounts of money to carry them on, seem to make it necessary that extraordinary inducements should be held out to capitalists to enter upon them, since a failure is almost sure to involve those who make the venture in financial ruin; it is not, however, the past with which we are now to deal, but rather the present and future; we are not sitting in judgment upon the history of this corporation, but upon its present condition. Dealing, then, with the present condition of these companies, and anticipating as far as can be their future condition, the question is one merely between creditor and debtor, and that is how to so deal with the debtor as to best secure the creditor in his just claims against the debtor, and the solution of this is to be had upon common business principles applied to the actual existing state of affairs as connected with these obligations.

The history of these debts and their present status may be found in the annual report of the Commissioner of Railroads, made at this session of Congress, p. 18 *et seq.*, and from which the committee beg to quote somewhat at length:

In my report for last year, page 15, I recommended that Congress consider the practicability of funding the debt, and called attention to the fact that under the decision of the First Comptroller, affirmed and adopted by the Secretary of the Treasury in his circular of June 27, 1883, the Government is liable to pay in cash for all services rendered by the bonded Pacific railroads over any portions of their roads owned, leased, or operated which have not been subsidized in bonds. I added "it is clear that under this decision, which is in accord with the decision of the Court of Claims (U. P. R. R. v. U. S., 16 Ct. Cls., 353), the companies have a manifest interest

liverting traffic from the subsidized portions of the roads." I also called attention he detailed statement of the Central Pacific Railroad Company, and to the fact , the earnings on the subsidized proportion of the road diminished in greater pro- ion during the year 1882 than on the non-aided portion. Comparison of the state- t on page 43 of my report for 1883 with that on page 43 of this report will show net earnings of 1882 on the aided portion to have been $3,171,6-0.95, and for 1883 46,122.76, a decrease of $525,558.19, or $131,389.55 of the proportion of such earn- due the Government.

ie Central Pacific system, in connection with the Galveston, Harrisburg and San onio system, embraces a line from Ogden, Utah, by way of San Francisco to New ans, a distance from Ogden to San Francisco of 8-5 miles, from San Francisco to 'aso of 1,2-6 miles, and from El Paso, over the Galveston, Harrisburg and San onio system, to New Orleans of 1,209 miles, a total distance of 3,390 miles, exclu- of 915 miles of auxiliary roads, and 490 miles of steamer lines. Of this total age only 860.66 miles are subsidized with bonds and are under the operation of act of May 7, 1878.

ie figures for the year 1883 show still more strikingly the decrease of earnings mile on the subsidized portion of this system. The comparative statement of ings and expenses on page 40 of this report shows that while there was an aver- decrease of earnings per mile on the whole system in 1882 of $462.35, the decrease ie non-aided portion was only $227.47 per mile as against $553.26 on the aided ion. During the year 1883 the average decrease per mile on the whole system $183.30, but the earnings on the non-aided portion *increased* $57.62 per mile, while e was a *decrease* on the aided portion of $335.63 per mile.

ese figures clearly exhibit the grave uncertainties which must be enconntered in plan which makes the payment of this vast debt depend upon a mere percentage et earnings. This contrasted decrease is doubtless to be largely attributed to the ral diversion of traffic from the subsidized portions of the line, which lie wholly h and east of San Francisco, consequent upon the opening of new and competing s through a territory whose traffic before the opening of the Southern Pacific and Atlantic and Pacific roads was necessarily limited to the Central Pacific, but a e part of which is naturally tributary to the newer lines, and which mainly in- ed their construction.

or all foreign freights the Atlantic sea-ports are the objective point.

| | Miles. |
|---|---|
| m San Francisco to New York, via the Central and Union Pacific | 3,334 |
| n San Francisco to New York, via Atlantic and Pacific | 3,458 |
| n Los Angeles to New York, via Atlantic and Pacific | 3,176 |
| n San Francisco to New Orleans, via Southern Pacific | 2,495 |
| n San Francisco to Galveston, via Southern Pacific | 2,184 |
| n Los Angeles to New Orleans, via Southern Pacific | 2,014 |

will thus be seen that the Atlantic and Pacific has opened a very formidable com- tion to New York from San Francisco and all points to the south of it, and that Southern Pacific, on its line to New Orleans and Galveston, has opened to the le of California, even to its northernmost extremity, the shortest present line to Atlantic ports. The point on the Central Pacific of equal distance between New and New Orleans, at which, other things being equal, the traffic destined for ign exportation would seek the New York or New Orleans terminus, would be it 419 miles east of San Francisco.

ie Union Pacific is now subjected to the competition in the territory south of its , of the Chicago, Burlington and Quincy, and the Denver and Rio Grande roads, ch parallel it through its whole length from its eastern terminus to Ogden. It is threatened with a no less formidable competition in the near future by the con- ction of a line, through the territory north of it, in the interest of the Chicago Northwestern, upon a line, partially surveyed beyond the terminus at Valentine, he Fremont, Elkhorn and Missouri Valley Railroad Company, of which 293 miles t of the Missouri River are already constructed, and which, when completed, will n a line of easy grade and construction again parallel to this road through its re length.

reference to the statements on pages 14 and 15 of this report it will be seen up to July 1, 1884, the United States has paid $63,099,504.18 as interest on the ndy bonds, while the total credits of the several companies on the interest account, hown by the Treasury statement, were $18 804,122.28, leaving an unpaid balance 44,295,381.90. This, added to the principal sum of the bonds, $64,623,512, makes ,918,893.90. Deduct from this sum $5,084,099.82, the amount now in the *sinking* , and there remains a balance of $102,834,794.08, the amount of their indebted- July 1, 1884, none of which is due until the maturity of the bonds.

ie annual interest paid by the United States on these bonds is $3,877,410.72. The l average annual repayment by the companies, thus far, has been $2,266,624.79, ring an average annual increase of the debt of $1,610,785.93.

Of the $2,266,624.79, the average annual payment, $1,013,016.64 is carried to the sinking fund, and only $1,253,608.15 is carried to the interest account. The United States, therefore, advances annually for interest an average of $2,623,802.57 in excess of the annual repayments of interest by the companies.

The first-mortgage bonds of these companies respectively are equal in amount to the subsidy bonds issued by the Government, and mature about the same time. They are secured by the mortgage pledge not only of all the property of the companies respectively, but of their "corporate rights, privileges, and franchise." Foreclosure would pass the title to the purchaser, discharged from the Government lien, and exempt from all legislative interference based upon the existing subsidy debt.

By section 10, of the act of 1864, they have priority of lien over the Government.

By section 8, of the act of May 7, 1878, the sinking fund created by that act "shall be held for the protection, security, and benefit of the lawful and just holders of any mortgage or indebtedness of such companies, respectively, lawfully paramount to the rights of the United States."

The continuation of the sinking-fund method is therefore to accumulate a fund which, in the possible insolvency of any of these companies, will stand for the benefit of the first mortgage creditors, and must be paid to them should the foreclosure of the first mortgage for any reason fail to realize the debt thus secured.

The relation of the Government to the debts of these railroads is shown by the following tables:

The first-mortgage debts, at their maturity, assuming that the interest in the mean time will be paid, and all of which has priority over the subsidy lien, will be as follows:

| | |
|---|---|
| Central Pacific | $27,853,000 |
| Union Pacific | 27,229,000 |
| Kansas Pacific | 6,303,000 |
| Sioux City and Pacific | 1,625,000 |
| Central Branch Union Pacific | 1,600,000 |
| | 64,613,000 |

The subsidy debt to the United States was, on the 30th of June, 1884, $102,834,794.06 and at the maturity of the subsidy bonds (say 1898) will be about $128,500,000, allowing to the companies the average of past annual credits, and assuming the average increase to be as in the past about $1,600,000 per year. In other words, the total indebtedness at maturity will closely approximate $193,000,000, including both the first mortgage and subsidy debts.

It necessarily follows that if the Government, as a second-mortgage creditor, would protect its debt in the event of the foreclosure of the first mortgage, it must bid to an amount sufficient to cover both, or about $193,000,000, a sum vastly in excess and probably twice as much as the same property would now cost to construct.

Should the property be sold to any purchaser other than the Government for a sum less than enough to cover both these debts, the Government must lose the difference. If sold to the Government it must pay in cash the whole first mortgage, amounting to about $64,613,000, and become the owner, contrary to any policy of the Government which has hitherto obtained, and operate them in the face of all the competition of parallel and rival roads which they must necessarily encounter. Nor is there any probability that the Government could reimburse its outlay by any re-sale.

Should the debt be funded as proposed, each semi-annual payment would be so nearly, or possibly quite, paid by the current earnings for Government transportation—if with the consent of the companies the *whole* may be so applied—that the balance, if any, could be easily paid out of the general earnings, and under such circumstances it would be clearly in the interest of the companies to pay.

In my annual report for 1882 I called attention to the unsatisfactory working of the present system. I said, page 15:

"It is manifest that when the bonds mature, at the close of the present century, the present sinking fund will not be sufficient to meet them, and if left to be dealt with then as a mere book account, with the risk of possible diminution of income from the rapidly increasing competition which they must surely encounter, adjustment may then be more difficult and embarrassing than now. * * *

"It is respectfully submitted that it is worthy of careful consideration whether it would not be wisest and best for Congress now to commute the present mode of payment into one of fixed amounts not dependent upon the fluctuations of net earnings or the contingencies of competition, which might cause net earnings to disappear."

In my report for 1883, pages 13-16, I again called attention to the subject. Without repeating that discussion, I may quote my opinion as then expressed, that—

"At the rate provided for in the Thurman act it would require a century or more to accumulate a fund sufficient to discharge this debt, and with strong probability that by this method it cannot be done. Nor would it be practicable to increase the

ercentage without manifest detriment, as well to the companies as their patrons. The payment, by whatever mode it be collected, must come from the earnings of the oad. If the rates be too high the burden falls with onerous weight upon the business, and would work directly in the interest of non-aided competing lines."

It is further shown by the Commissioner's report, as all who have examined the matter now fully understand, that the act of May 7, 1878 (the Thurman sinking-fund act), has failed to accomplish its ends and purposes, and it is manifest the payment of these debts cannot be secured by and under this measure, and this from causes that could not be anticipated when the act was passed.

With this array of facts before the committee, and an exhibit of the liabilities and the assets of these roads, as appears more fully in the report of the Secretary of the Interior at this session (pamphlet, President's message and reports of heads of Departments, p. 189, *et seq.*), the committee have concluded that while harsh and coercive measures might, to some extent, punish justly these companies for failing to meet their obligations, they might also, and most probably would, result in great loss to the Government in a failure to be reimbursed for outlays for these roads. The crippling or breaking down these companies, or the compelling a sale at which the Government would be forced to bid to protect herself, would not be wise policy. Whatever mismanagement may have attended these roads in the past, and however little they appeal to the sympathy of Congress for time in the payment of their debts, yet the surest and speediest posssible payment, as matters now stand, will be secured, in the judgment of the committee, by an extension of time, with large further securities for payment, in which to meet these debts. And to this end, concurring in the views of both the Secretary of the Interior and the Commissioner of Railroads, the committee favor the bill with amendments, as before indicated.

The bill is in brief this: to fix a day on which the indebtedness of the companies respectively to the Government shall be ascertained upon the same principle as if the whole debt and interest were to be paid on that day, with a proper rebate of interest at the rate of 3 per centum per annum, and deducting from such amounts all payments made by the companies in money, or transportation, or otherwise, and extending the time at an interest of 3 per centum. The period for extension of payment of the last installment of the indebtedness is forty-six years beyond the date of maturity of the subsidy bonds, or an average extension of the whole debt of twenty-three years.

In consideration of the extension of time thus granted the companies re required to deposit with the Secretary of the Treasury bonds of redemption for the amount of the debt as ascertained in specific sums, ne bond to mature every six months, and *all* the earning of the roads y Government transportation upon any roads owned, leased, or operted by the company shall be applied to the payment of the current naturing bonds of redemption, and no money shall be paid by the Govrnment for transportation or service of any kind over the aided or nonaided roads until the bond next maturing shall be fully paid.

It extends the statutory lien and security now subsisting over all oads owned or operated, or hereafter acquired and wherever situated, by the companies, including telegraph lines, franchises, rolling-stock, and property of every kind and description, to remain as security for the bonds of redemption until all are paid, embracing over 5,000 miles of road not now held as security by the Government.

It also requires that the company accepting the provisions of this bill shall also accept the provisions of the *Thurman act*, yielding all questions of constitutionality of said act.

The plan further provides that either of said companies may prepay and discharge the debt in full at any time, and, as an inducement for such prepayment, an abatement of 3 per cent. per annum in interest is allowed, and the companies are authorized to mortgage their franchises and property for the purpose of raising funds to redeem these bonds of redemption if they see fit to do so. The sinking fund heretofore established in the Tresury is discontinued, but not till the bonds and mortgages provided for in the bill are executed and delivered.

The railroads and telegraph lines are required at all times to be at the service of the Government at rates as low as the lowest accorded to any individual for like service. A failure for six months to pay any of the redemption bonds at maturity, under the provisions of this bill, renders all of said bonds thereupon due and payable.

In order that the companies shall partake of the benefits of the proposed plan, they must accept the same under their corporate seals on or before April 1, 1885.

The purpose of the extension proposed is to bring the semi-annual payments sufficiently within the ability of the companies to render such payments entirely certain, and it cannot, in the opinion of the committee, be of any vital consequence to the Government whether the debt be paid in fifty or sixty years, so long as its ultimate payment can be certainly secured.

The necessity of this extension further appears from the fact that the first-mortgage bonds of equal amount with the subsidy bonds mature at the same time, and these bonds having under the act of 1864 priority of lien over the Government, which stands in the relation of only a second-lien creditor, must be paid before the Government can obtain anything, and such payments would so strain the resources of the companies that if no extension be given the probabilities are that the foreclosure of the first-morgage bonds would extinguish the debt of the Government, unless it is prepared to pay for the Union Pacific, including the Kansas Pacific, and for the Central Pacific sixty odd millions of dollars to cover the debt with interest of the mortgage which has priority over the Government.

If the Government became the purchaser and thereby the owner of these roads, it would thus find itself engaged in the railroad business generally, which would be altogether a new and very questionable policy in its history, and then it is by no means certain that, after paying this large prior debt, the Government would reimburse itself with the entire management and control of the roads in its hands, at least for many years beyond the time contemplated in the extension provided for by the bill. And there is scarcely any reasonable probability that the Government could reimburse itself for this outlay by any resale of the roads. In the event of the companies failing to accept the provisions of the plan of extension, "the Thurman sinking-fund act" remains in full force and effect as to all of the aided roads, including the three lines not hitherto embraced thereunder, with the percentage increased from 25 to 35 per cent.

If the Thurman sinking-fund act remains in force by the neglect of the companies to accept the plan heretofore described, then the Secretary of the Treasury is given enlarged power in the investment of the fund. The Attorney-General is required to look to a strict enforcement of this act.

Believing the plan of adjustment provided for in the bill herewith presented is fair and just, and will secure the Government in the payment of the debts due her by the roads, the committee submit it to the Senate as amended.

Your committee therefore propose to amend the bill by striking out the preamble and all after the enacting clause, and inserting the substitute herewith submitted. They further propose to amend the title of the bill by substituting the title herewith reported and marked A.

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A.

A BILL to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July first, eighteen hundred and sixty-two; also to amend an act approved July second, eighteen hundred and sixty-four, and also an act approved May seventh, eighteen hundred and seventy-eight, both in amendment of said first-mentioned act; and to provide for a settlement of the claims growing out of the issue of bonds to aid in the construction of certain of said railroads, and to secure to the United States the payment of all indebtedness of certain of the companies therein mentioned.

: CONGRESS, } SENATE. { REPORT
l Session. } { No. 1098.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 29, 1885.—Ordered to be printed.

HARRISON, from the Committee on Military Affairs, submitted the following

# REPORT:

[To accompany bill S. 2373.]

*Committee on Military Affairs, to whom was referred the bill (S. 2373) facilitate promotions throughout the Army, by retiring from active vice, upon their own application, officers of the Army who served in war of the rebellion, respectfully report:*

ıat the bill was submitted to the Secretary of War for his consid- on with the request that he would submit his views upon the legis- n, proposed. In response to that request we have received from the following communication:

WAR DEPARTMENT,
*Washington City, January 22*, 1885.

: I have the honor to acknowledge the receipt of your letter of January 10th in-, inclosing copy of bill, Senate 2373, to facilitate promotions throughout the by retiring from active service upon their own application officers of the Army served in the war of the rebellion, and to inform you that upon reference of the o the Lieutenant-General of the Army for his views, he has advised me that he o recommendations to make upon it.

on such consideration as I have been able to give to the subject myself, I cannot ımend the passage of the bill. I inclose to you a table showing the number of rs now on the active list of the Army, and also pointing out the number of them served in the war of the rebellion as officers or soldiers in the Volunteers or in egular Army, assuming that the war of the rebellion ended June 1, 1865, which o be observed is merely an assumed date, it being not far distant from the time ıich actual hostilities ceased. It is, however, to be noted that the Supreme Court e United States, in the case of the Protector, 12 Wall., 700, held that the war ended the States except Texas on April 2, 1866, and in Texas on August 20, 1866. If the r date is assumed to measure the duration of the war under the terms of the bill, st of officers now on the active list who would be considered as serving in the of the rebellion would be increased by those who entered the military service June 1, 1865, and prior to the dates mentioned in the decision of the Supreme t. Taking, however, the date named in the table, June 1, 1865, it appears that r the proposed legislation the Lieutenant-General, all the major-generals, all the ıdier-generals, all the colonels, all the lieutenant-colonels, nearly all the majors, than two-thirds of the captains, nearly one-third of the first lieutenants, and a ıecond lieutenants, would be entitled at once upon their own applications to be d on the retired list of the Army with the next higher full grade above that held ıem respectively at the time of their applications, and that almost precisely one- of the officers on the active list of the Army to-day would be entitled to be so re- . So large an addition to the retired list of the Army would not only be enor- ıly expensive, but would, I think, endanger the existence of the whole of the re- list when the size of the burden is duly appreciated. It is true that, for reasons h are now beyond the control of departmental action, promotion in some parts ıe Army is very slow, but it is my opinion that on the whole the provisions for ement are liberal. Under the provisions of the act of Congress making retire- compulsory at the age of sixty-four, it will not be many years before that part

of the retired list which is limited to 400 names can be used almost exclusively for the retirement of disabled officers, and thereby promotions will be considerably facilitated.

I have the honor to be, very respectfully, your obedient servant,

ROBERT T. LINCOLN,
*Secretary of War.*

Hon. BENJAMIN HARRISON, U. S. S.,
*Washington, D. C.*

The following is the table referred to by the Secretary:

*Statement showing the number of officers now on the active list of the Army who served in the war of the rebellion as officers or soldiers of the Volunteer or Regular Army,* 1861 *to June* 1, 1865.

| | Lieutenant-General. | Major-general. | Brigadier-general. | Colonel. | Lieutenant-colonel. | Major. | Captain. | First lieutenant. | Second lieutenant. | Chaplain. | Total. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Authorized strength | 1 | 3 | 16 | 67 | 89 | 235 | 617 | 656 | 459 | 34 | 2,177 |
| General officers | 1 | 3 | 6 | | | | | | | | 10 |
| Adjutant-General's Department | | | 1 | 2 | 4 | 10 | | | | | 17 |
| Inspector-General's Department | | | 1 | 1 | 2 | 1 | | | | | 5 |
| Judge-Advocate-General's Department | | | 1 | 1 | 3 | 3 | | | | | 8 |
| Quartermaster's Department | | | 1 | 4 | 8 | 14 | 27 | | | | 54 |
| Subsistence Department | | | 1 | 2 | 3 | 8 | 10 | | | | 24 |
| Medical Department | | | 1 | 6 | 10 | 50 | 23 | | | | 90 |
| Pay Department | | | 1 | 2 | 3 | 31 | | | | | 37 |
| Corps of Engineers | | | 1 | 6 | 12 | 16 | 5 | | | | 40 |
| Ordnance Department | | | 1 | 3 | 4 | 10 | 12 | | | | 30 |
| Signal Corps | | | 1 | | | | | | | | 1 |
| Chaplains | | | | | | | | | | 16 | 16 |
| Aggregate staff | 1 | 3 | 16 | 27 | 49 | 143 | 77 | | | 16 | 332 |
| Cavalry | | | | 10 | 10 | 30 | 101 | 22 | | 1 | 174 |
| Artillery | | | | 5 | 5 | 15 | 56 | 47 | | | 128 |
| Infantry | | | | 25 | 25 | 25 | 241 | 125 | 7 | | 448 |
| Aggregate line | | | | 40 | 40 | 70 | 398 | 194 | 7 | 1 | 750 |
| Grand aggregate | 1 | 3 | 16 | 67 | 89 | 213 | 475 | 194 | 7 | 17 | 1,082 |

R. C. DRUM,
*Adjutant-General.*

ADJUTANT-GENERAL'S OFFICE, *January* 22, 1885.

The committee do not deem it necessary either to add to or elaborate the reasons given by the Secretary of War against the passage of this bill.

We recommend that the bill do not pass, and that it be indefinitely postponed.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1099.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 29, 1885.—Ordered to be printed.

Mr. HARRISON, from the Committee on Military Affairs, submitted the following

# REPORT:

[To accompany bill S. 2593.]

The Committee on Military Affairs have received a communication from the Secretary of War, inclosing a letter from General W. B. Hazen, Chief Signal Officer United States Army. The communications are as follows:

WAR DEPARTMENT,
*Washington City, December*, 1884.

SIR: I have the honor to transmit herewith, for the consideration of your committee, a letter of the Chief Signal Officer of the Army, dated November 13, 1884, inclosing a draft of a joint resolution for the relief of First Lieut. George S. Grimes, Second United States Artillery, and other officers of the Signal Service whose accounts have been suspended in the Treasury Department for the reason that tolls received for dispatches sent over the Bismarck-Fort Ellis section of the United States military telegraph lines were used, contrary to law, in paying the expenses of said lines.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
*Secretary of War.*

Hon. JOHN A. LOGAN,
*Chairman Committee on Military Affairs, United States Senate.*

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SIGNAL OFFICE, WAR DEPARTMENT,
*Washington City, November* 13, 1884.

SIR: I have the honor to transmit herewith, in duplicate, a draft of a joint resolution for the relief of First Lieut. George S. Grimes, Second Artillery, acting signal officer, and other officers of the Signal Service, with the request that necessary action may be taken to have the inclosed papers presented to Congress at its next session for immediate action.

The accounts of these officers have been suspended in the Treasury Department, for the reason that tolls received for dispatches sent over the Bismarck-Fort Ellis section of the United States military telegraph lines were used, contrary to law, in paying the expenses of said lines. As the disbursements were made from those receipts by the officers in good faith and through a misunderstanding of the law, and as the United States has received the benefit thereof, the officers should be entitled to receive credit for all payments thus made.

In conclusion, I would say that since the 1st day of July, 1883, all moneys received for the transmission of private dispatches over any and all telegraph lines controlled by this Bureau have been turned into the Treasury of the United States, as required by the act approved March 3, 1883, and section 3617 of the Revised Statutes, as will be done in future.

I am, very respectfully, your obedient servant,

W. B. HAZEN,
*Brig. and Bvt. Maj. Gen., Chief Signal Officer, U. S. A.*

The Hon. SECRETARY OF WAR,
*Washington, D. C.*

The joint resolution prepared by General Hazen is as follows:

JOINT RESOLUTION for the relief of First Lieutenant George S. Grimes, Second United States Artillery, and other officers of the Signal Service.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the expenses of operating and keeping in repair the northwestern section of the United States military telegraph lines (from Bismarck to Fort Ellis, and connections) constructed under the act of Congress approved June 20, 1878, which between the 20th day of June, 1878, and 30th day of June, 1883, may have been paid out of moneys received for dispatches sent over said section, be, and the same are hereby, authorized and allowed, and the several officers making such payments are entitled to and should receive proper credit therefor upon examination of their respective accounts: *Provided,* That said accounts conform in all other respects to the rules of the War and Treasury Departments governing the disbursement of public moneys.

And all acts or parts of acts inconsistent herewith are hereby repealed.

The committee believe that it is right to relieve the officers referred to, as proposed in the joint resolution, and have prepared and report the accompanying original bill to accomplish that purpose, the passage of which is recommended.

CONGRESS, } SENATE. { REPORT
Session. } { No. 1100.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 29, 1885.—Ordered to be printed.

PIKE, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 2722.]

*ommittee on Claims, to whom was referred the bill (H. R. 2722) for relief of Martha Turner, having considered the same, make the fol- ing report:*

ıt John Turner, sr., late of Union County, Tennessee, petitioned the -first Congress to allow him $2,000 in full for his services rendered ›ting and guiding recruits from within the Confederate lines to the ı Army, and for all moneys expended by him while thus engaged; he country in which he performed this service was the mountain- ıgions of East Tennessee and Southern and Eastern Kentucky; pon the evidence it is clear that from the deceased Turner's knowl- ›f the mountain passes and the formation of the country generally s of great service to the Union cause by so piloting large numbers ugees and recruits over the mountains to the Federal Army at ıs points in Kentucky; that in doing this he experienced great hips and many privations; that the testimony of several commis- l officers and many private citizens, in connection with other papers shows that the said Turner commenced the work of piloting re- , as above stated, about the 1st of January, 1862, and continued me for all the time till about September 1, 1863, making full twenty ıs; that his services, as certified to by six commissioned officers of ederal Army and six private citizens who had knowledge of them ious capacities, together with money paid out, were worth at least per month; that he ought to be paid that sum at least, which is ım he claims; and that in addition to this he was captured and soned for some time by the Confederates on account of his Union nents.

the 18th of June, 1870, a bill passed the House of Representatives priating the petitioner the amount he claimed, but the bill was ached in the Senate during that Congress and failed to become a

›legislature of the State of Tennessee, fully recognizing the loyalty evotion of the said Turner during the war, and the great services d rendered the Government of the United States, in November, passed a joint resolution directing their Senators and Representa- in Congress to procure, if possible, an appropriation sufficient to ıpense him for the hardships and privations endured and services ıred the Government.

ılso appears upon the evidence that neither the said Turner nor

any of his representatives have ever been paid anything for these services or the money expended while acting as a pilot to the Federal lines. It also appears that he was requested by several officers of the Federal Army to recruit for them, and was promised $2.50 for each recruit, and it further appears that at this price the amount his due would exceed the $2,000 claimed by him.

This bill is for the benefit of Martha Turner, the widow of the original claimant, John Turner. His children and all interested have waived all claim against the Government and agreed that whatever allowance is made be given the widow, in her name and for her sole benefit.

Your committee therefore recommend that the bill pass.

H CONGRESS, 2d Session. | SENATE. | REPORT No. 1101.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 29, 1885.—Ordered to be printed.

SAWYER, from the Committee on Post-Offices and Post-Roads, submitted the following

# REPORT:

[To accompany bill H. R. 2268.]

*Committee on Post-Offices and Post-Roads, to which was referred the ill (H. R. 2268) for the relief of John F. Severance, has considered the ame, and reports:*

'his claim was reported favorably by the House Committee on Claims the Forty-sixth Congress (Report No. 913), also by the same comtee of the Forty-seventh Congress (Report No. 158), and recently the same committee of the present Congress (Report No. 227). All hese reports embody the following statement of facts, which your mittee has found to be true and correct:

is is a claim for relief by the said Severance, as postmaster at Shelburne Falls, in klin County, in the State of Massachusetts, from loss occasioned by the robbery s office on the night of June 19, 1878. The claimant was appointed as postmaster elburne Falls and entered upon the duties of his office March 1, 1878. On the t of June 19, between twelve and three o'clock, burglars forced open the windows e office, blew open the safe with gunpowder, and carried away all the stamps in, of the aggregate value of $435, and all the money therein, of the value of which money had been received from the sale of stamps and postal cards and postage. At the same time the burglars broke open the jewelry store of J. G. n, in the next building to the post-office, and blew open the safe therein and l it of jewelry and $375 in money, the loss of said Brown amounting in all to from O to $2,500. Early next morning it was discovered that the post-office and jewstore had been robbed. The post-office was separated by a partition from the ex- office and the outer door of the express office and the partition door between and the post-office had been forced open. The safe door was badly torn by der, and the inside door blown off. It was a fire-proof safe of the usual contion, and made by E. R. Morse, a manufacturer of good reputation. Pursuit immediately made of the burglars. The same evening the said Brown and Mr. lett overtook a man 8 miles from the said village with a valise, and on asking e it, he emptied two revolvers at his pursuers, hitting Mr. Bartlett, and then nto the woods. They followed his trail but lost it. The next night the bridges which he might escape were guarded, and a similar man was seen on the railbridge near by. The patrol opened fire with revolvers, which the man returned. fired away all their cartridges, but the man escaped into the woods. The next ing a man who lived near by found on the spot where this affray had occurred l on the timbers and a bundle dropped on the abutments of the bridge. It con- d the jewelry of the said Brown and specie belonging to him, and a package $13 in silver change and all the postage-stamps which the postmaster had lost. weeks after an old valise was found near the supposed trail of the burglars $2 in pennies.

The postmaster's account of his loss is, then, as follows:

| | | |
|---|---|---|
| Stamps stolen from the office | | $435 00 |
| Money stolen from the office | | 100 00 |
| Total | | 535 00 |
| Recovered: | | |
| Silver | $13 00 | |
| Pennies | 2 00 | |
| Stamps | 435 00 | |
| | | 450 00 |
| Making the balance lost by the postmaster | | 85 00 |

Full affidavits of all the facts were presented to the House Committee on Claims by the claimant and by other reputable citizens who are acquainted with the circumstances of the case, and some of whom joined in the hunt for the burglars.

A report in the said case was made by the special agent of the Post-Office Department to said Department, which report is as follows:

"BOSTON, *March* 5, 1879.

"SIR: I have the honor to return ordinary case No. 11381, and to inform you that after investigation, I found that the office was entered by burglars on the night of June 18, 1878; that $435 worth of stamps and $100 of postal money was stolen; and that the day following there was found all of the stamps and $13 of the money by the roadside, leaving a loss of $87 to the postmaster.

"Up to this time no trace of the depredators has been found, although the town officers have been on the constant hunt, and have offered a reward of $250 for their apprehension.

"Very respectfully.

"CHARLES FIELD,
"*Special Agent Post-Office Department.*

"DAVID B. PARKER,
"*Chief Special Agent Post-Office Department, Washington, D. C.*"

The claimant and the officials connected with the office have always borne the highest character, and have used due diligence in the care of the property intrusted to their charge. They did all that any man could reasonably have been expected to do, in order to secure the property in the post-office. It is also evident from the circumstances, as reported, that everything was done that was possible to secure the burglars and the property which they had stolen, and it was owing to the diligence and perseverance of the pursuers that so large a portion of the stolen property was recovered and the loss of the postmaster was reduced from the sum of $535 to the sum of $85.

Your committee has also inquired into the question whether the claimant promptly reported his loss to the Department. The following letter from the chief post-office inspector will plainly show that in this regard there was no remissness on the part of the postmaster:

POST-OFFICE DEPARTMENT,
OFFICE OF CHIEF POST-OFFICE INSPECTOR,
*Washington, D. C., January* 26, 1885.

SIR: I have the honor to acknowledge receipt of your communication of the 26th instant, addressed to the Hon. Postmaster-General, in which you desire to be informed whether, in the case of John F. Severance, postmaster at Shelburne Falls, Mass., claimant promptly reported the fact of his loss to the Post-Office Department.

In reply, I have the honor to state that the loss was promptly reported to the Hon. Postmaster-General, by telegraph, on June 19, 1878, by the postmaster (J. F. Severance); that he also telegraphed to Inspector B. H. Camp, at Boston, Mass., and on same date (June 19, 1878) he advised the Hon. Second Assistant Postmaster-General by letter.

Very respectfully,

A. G. SHARP,
*Chief Inspector.*

GILBERT D. FOX, Esq.,
*Clerk Committee on Post-Offices and Post-Roads, Senate.*

Wherefore your committee reports back the bill under consideration without amendment, and recommends its passage.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1102.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 29, 1885.—Ordered to be printed.

Mr. MAHONE, from the Committee on Public Buildings and Grounds, submitted the following

# REPORT:

[To accompany bill H. R. 7619.]

The Committee on Public Buildings and Grounds of the Senate beg leave to submit the following report of the Judiciary Committee of the House as seeming to cover the case fully:

[House Report No. 2248, Forty-eighth Congress, second session.]

JANUARY 10, 1885.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. MAYBURY, from the Committee on the Judiciary, submitted the following report (to accompany bill H. R. 7619):

*The Committee on the Judiciary, to whom were referred the memorial of the board of education of the city of Detroit, Mich., and bill H. R. 7619, giving effect to the purposes expressed in said memorial, have had the same under consideration, and respectfully report:*

By an act of Congress approved April 1, 1806 (Statutes at Large, 2d vol., p. 398), the governor and judges of the then Territory of Michigan were authorized to lay out a town upon the site embraced by the old town of Detroit and certain adjacent territory mentioned in said act, and to dispose of the same at their discretion. The purposes of the act were carried out, and after donating certain lots to citizens who had suffered losses by the fire of 1805, the proceeds accrued from the sale of lots were to be applied, under the provisions of the act, towards the erection of a court-house and jail within the limits of the town.

In laying out the town in streets, squares, and public spaces certain of these latter were set apart for defined public uses, including public schools. In May, 1807, the governor and judges adopted a series of regulations concerning the uses to which the various public grounds and spaces should be devoted. On one of these public spaces, and being the one now in controversy, there was erected in 1823 a public building known as a court-house, which was afterwards used as a Territorial and State capitol building, and continued to be so used until the removal of the State capitol to the present city of Lansing. A county jail was erected upon another of the public spaces so designated. By an act of Congress, approved August 27, 1842, supplementary to the act of 1806 heretofore cited, all the property mentioned in the act of 1806 not disposed of was vested in the city of Detroit, excepting the spaces then occupied by the capitol and county jail, and the residuary powers of the governor and judges passed to the authority of the said city. In 1847 the State capitol was removed from Detroit and the possession of the space mentioned in the memorial and the building erected thereon were surrendered to the city of Detroit by action of the State government.

On the 5th of October, 1847, the common council of the city of Detroit passed a resolution that as soon as the capitol should be vacated by the State authorities the same should be set apart, and, under the sole direction of the board of education, should be used for the purposes of the several schools of the city in such manner as said board might direct. By virtue of this resolution the board of education, which is a corporation separate and distinct from that of the city, immediately took possession of said space, establishing first a common school and afterwards the high school

which they have since and still maintain, having enlarged and improved the original building by expending thereon the sum of $100,000. In 1874 the city of Detroit, in the exercise of its municipal power, attempted to extend a public street through the space in question; this attempt on the part of the city was resisted on the part of the board of education upon the ground that the action of the city would completely change the nature of the public use to which this space was originally devoted, and that the title and possession of the board of education could not be disturbed. The controversy was terminated by a decision rendered in the supreme court of the State of Michigan (see Board of Education *vs.* City of Detroit, 30 Mich., 507); the position of the board was sustained, and since that time the city has made no claim to the proprietorship of the premises.

While there is no question of the title of the board of education to the premises so long as used by them for school purposes, yet the question is raised whether, if the interest of education should require a change in the location of the high school, through the encroachment of business interests, the General Government might not claim that under and by virtue of the reservation cited in the act of 1842 the title had reverted to it. It is against this contingency and for the cession of any such reversionary right on the part of the Government that the action of Congress is now invoked.

It is evident to us that the only valid reason that can be assigned for the reservation made in the act of 1842 was that the court-house, as it was then termed, was in the possession of the State, and that Congress did not desire nor deem it expedient to disturb the rights of the State in the premises in favor of the city.

In a controversy originating in relation to the site of the jail, which was the other space reserved in the act of 1842, the supreme court of the State of Michigan held that after the removal of the jail the space it had occupied was under the control of the city of Detroit, and sustained the action of the city in granting said space to the board of education for the erection of a public library building. It is clear to your committee that Congress did not intend in the act of 1842 to reserve to the General Government the title or any other interest in the premises, except so far as it was necessary to protect the authorities of the State therein, and when the interests of the State in the premises ceased every reason for the reservation was terminated.

Your committee see no reason why the effect of this reservation should not be dispelled by the legislation requested, that the title to the space in controversy might be as absolute in the board of education as is its title to other public grounds and spaces whereon the schools of the city are erected.

Your committee would therefore recommend the adoption of the bill herewith submitted.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1103.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 2162.]

*The Committee on Pensions, to whom was referred the bill (S. 2162) granting an increase of pension to Julia (Sallie) M. Michler, widow of Lieut. Col. Nathaniel Michler, deceased, have examined the same, and report as follows:*

Mrs. Michler is the widow of the late Lieut. Col. Nathaniel Michler, and was pensioned in 1882 at $30 per month, from December 20, 1882, the date of filing her application. The present bill proposes to increase her pension to $50 per month. The papers before your committee present no sufficient reasons for granting the relief sought. The case is not so exceptional in its character as to justify a departure from the general rule under which she is now receiving the full pension allowed by law.

The committee recommend that the bill be indefinitely postponed.

O

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1104.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 2048.]

*The Committee on Pensions, to whom was referred the bill (S. 2048) granting a pension to Elizabeth Templeton, have examined the same, and report as follows:*

The bill proposes "to place on the pension roll the name of Elizabeth Templeton, widow of William Templeton, for services in the war of 1812, at the rate of $10 per month." It appears from the papers that William Templeton filed an application for pension as a soldier in the war of 1812, under the act of February 14, 1871. Pending his application, the said Templeton died in March, 1878. On the 15th September, 1879, his widow, the said Elizabeth, filed her application for pension on the ground of her husband's alleged service in said war. Upon investigation it appears that the said Templeton's service consisted in transporting supplies for the Army under special contract upon pack horses, and that he was not in the military service otherwise than as a specially-employed teamster. The widow's claim was accordingly rejected, as there was no provision of law applicable to teamsters who were not enlisted men. This action of the Commissioner was clearly correct. It appears from her statement that the widow is old, possessed of but little means, and mainly supported by one of her children. Her condition and circumstances appeal to our sympathy, but there is nothing in the case to warrant your committee in extending the pension laws and granting special relief.

The committee accordingly report back the bill to the Senate with the recommendation that it do not pass, but be indefinitely postponed.

C

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1104.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 2048.]

*The Committee on Pensions, to whom was referred the bill (S. 2048) granting a pension to Elizabeth Templeton, have examined the same, and report as follows:*

The bill proposes "to place on the pension roll the name of Elizabeth Templeton, widow of William Templeton, for services in the war of 1812, at the rate of $10 per month." It appears from the papers that William Templeton filed an application for pension as a soldier in the war of 1812, under the act of February 14, 1871. Pending his application, the said Templeton died in March, 1878. On the 15th September, 1879, his widow, the said Elizabeth, filed her application for pension on the ground of her husband's alleged service in said war. Upon investigation it appears that the said Templeton's service consisted in transporting supplies for the Army under special contract upon pack horses, and that he was not in the military service otherwise than as a specially-employed teamster. The widow's claim was accordingly rejected, as there was no provision of law applicable to teamsters who were not enlisted men. This action of the Commissioner was clearly correct. It appears from her statement that the widow is old, possessed of but little means, and mainly supported by one of her children. Her condition and circumstances appeal to our sympathy, but there is nothing in the case to warrant your committee in extending the pension laws and granting special relief.

The committee accordingly report back the bill to the Senate with the recommendation that it do not pass, but be indefinitely postponed.

C

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1105.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 1949.]

*The Committee on Pensions, to whom was referred the bill (S. 1949) granting a pension to Elise Burki, have examined the same, and report as follows:*

That Christian Johann Burki, late first lieutenant Company E, Fifteenth Regiment Missouri Volunteers, was pensioned for gunshot wound of left leg at $8.50 per month. The wound was received in November, 1863. After remaining in hospital for a while he returned to his command, and was honorably discharged in December, 1865. The soldier returned to his native country, Switzerland, after the war, and died at Berne, Switzerland, on the 13th April, 1873. On the 24th March, 1874, his widow, the said Elise Burki, filed her application for pension, alleging that her husband had died of the wound so received in the service. Upon investigation it appeared that the soldier died of cerebral meningitis. It was then claimed that the wound led to the disease aforesaid; but this theory was not accepted by the medical referee of the Department, and the claim was rejected on the ground that the cause of the soldier's death could not be properly or reasonably attributed to the military service. The claimant then sought relief from Congress, and while the case was pending before the Senate Committee on Pensions, Senator Blair, under date of June 12, 1884, returned the papers to the Commissioner of Pensions with the request that he would have "the case looked over carefully again in order to see if there should not be pension on the ground that the death grew out of the blood poisoning and other disease contracted in the service." He further inquired whether the gunshot wound may not have caused the disease of which the soldier died. The Commissioner, as requested, had the case carefully re-examined, and, under date of June 21, 1884, replied to Senator Blair's inquiries as follows:

DEPARTMENT OF THE INTERIOR, PENSION OFFICE,
*Washington, D. C., June* 21, 1884.

SIR: I have the honor to return herewith the papers constituting the claim of Elise Burki, widow of Christian J. Burki, No. 214544, with the information that after careful consideration the medical referee of this office is of the opinion that the cause of death of the claimant's husband is in no way chargeable to the military service. If the blood poisoning was established as having been incurred in the service, the same cannot, or could not, be accepted as eventuating in chronic cerebral meningitis. It will be observed that the attending physician (Dr. Marti) testifies that Mr. Burki was taken sick soon after the American war, presumably in the year 1867, the year said doctor commenced to treat him, and in 1868 he (the doctor) diagnosed the disease as

meningo-cephalitis chronica, which developed in encephalo-malaria, softening of the brain, &c., which facts tend to indicate that the death cause originated subsequent to the termination of the soldier's service. It does not appear probable that any evidence could be furnished to warrant a change of action.

Very respectfully,

O. P. G. CLARKE,
*Acting Commissioner.*

Hon. H. W. BLAIR,
*United States Senate.*

After a careful examination of the case, your committee consider this action of the Commissioner correct, and no reasons are presented for changing the result thus reached. They accordingly report back the bill to the Senate with the recommendation that it do not pass.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1106.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4613.]

*The Committee on Pensions, to whom was referred the bill (H. R. 4613) granting a pension to Preston M. Shannon, have examined the same, and report as follows:*

That the said Preston M. Shannon, who was a private in Company E, Third Regiment East Tennessee Volunteers, filed his application for invalid pension on the 23d September, 1879, alleging as the basis of his claim that he contracted rheumatism in June, 1863, at Carthage, Tenn. The soldier was discharged February 23, 1865. After investigation of his claim it was, in 1883, rejected "on the ground that there was no record of the alleged disability, nor treatment in the service, and the claimant has stated his inability to furnish testimony to show treatment therefor while in the service, or its existence at discharge, or thereafter until 1872." It appears from the papers that the claimant was examined by a medical board at Knoxville, Tenn., on the 6th July, 1881, which reported as follows: "There are no indications of rheumatism in this case and no disability." He was again examined on the 28th March, 1883, by another board of examining surgeons, which found no disability, and reported that he was entitled to *no rating*. It does not appear that he has since been examined, or that there has since been any change in his condition. The action of the Pension Office in rejecting the claim was clearly correct, and no special relief should be granted by Congress upon the papers and evidence before the committee.

We accordingly report back the bill with the recommendation that it be indefinitely postponed by the Senate.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1107.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1836.]

*The Committee on Pensions, to whom was referred the bill (H. R. 1836) for the relief of Elizabeth Moyal, have examined the same, and report as follows:*

That the said Elizabeth Moyal, on the 5th May, 1877, filed her application for pension as dependent mother of Stephen Moyal, late private in Company K, Tenth Regiment Tennessee Cavalry Volunteers, who, it was alleged, had died in the service. Upon investigation of the case it appeared that the soldier was fatally stabbed by a comrade while quarreling over a private matter. The claim was rejected because the fatal wound which resulted in death was not received in the line of duty. This action of the Commissioner was clearly correct. It is wholly immaterial to consider which of the two soldiers was most at fault or to blame for the quarrel which resulted so fatally. The quarrel arose from a most trivial cause, and was in no possible sense in the line of duty.

Your committee recommend that the bill be indefinitely postponed by the Senate.

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48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1108.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1885.—Ordered to be printed.

Mr. CAMDEN, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3332.]

*The Committee on Pensions, to whom was referred the bill (H. R. 3332) granting a pension to George S. Riggs, have carefully examined the same, and respectfully report:*

That it appears from a communication of the Commissioner of Pensions, dated January 24, 1885, that the claimant has obtained at the Pension Office the relief asked for in the bill.

Your committee therefore recommend the indefinite postponement of the bill.

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48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1109.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1885.—Ordered to be printed.

Mr. CAMDEN, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 1801.]

*The Committee on Pensions, to whom was referred the bill (S. 1801) granting a pension to Mrs. Elizabeth Ann Rice, have carefully examined the same, and respectfully report:*

That the claimant filed her application for a pension April 12, 1881.

It appears from the evidence that the deceased soldier, Franklin J. Rice, enlisted in Company C, Eighth Regiment of Minnesota Volunteers, on August 13, 1862, and was discharged May 10, 1865, and that his death occurred January 19, 1881, from rheumatism of the heart.

Capt. E. A. Folsom, of Company C, Eighth Minnesota Volunteers, testifies that the deceased soldier was wounded in the left arm on December 7, 1864, at the battle of the "Cedars." Dr. Samuel Willey, ex-surgeon, testifies that the degree of disability was three-fourths and permanent.

On April 17, 1869, the deceased soldier was pensioned at the rate of $6 per month, commencing May 10, 1865, and continuing until his death.

The claimant states that her husband died from heart disease caused by the gunshot wound in the left arm, and submits the evidence of Dr. James C. Rhodes to establish her claim. Dr. Rhodes testifies to the good health of the deceased when he entered the service. After soldier's discharge he was his physician, and he states that the deceased suffered from derangemet of the kidneys as well as functional derangement of the heart. Dr. Rhodes further states that in his opinion the death of the deceased was caused from injuries received in the service and in the line of duty.

The claim was rejected by the Commissioner of Pensions for the reason that—

> The claimant is unable to establish origin of the said fatal disease in the service, and the theory that the same was due to the gunshot wound of left arm for which the soldier was pensioned is not acceptable.

Your committee are of the opinion that there is not sufficient evidence in this case to establish the cause of the death of the soldier to the gunshot wound received in the arm nearly eighteen years before the death of the soldier, and that there is no good reason to reverse the action of the Commissioner of Pensions in this case.

Your committee recommend the indefinite postponement of the bill.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1110.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1885.—Ordered to be printed.

Mr. CAMDEN, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 2348.]

*The Committee on Pensions, to whom was referred the bill (H. R. 2348) granting a pension to John D. Rickards, have examined the same and the paper therewith submitted, and respectfully report:*

That the said John D. Rickards was a member of Company A, Sixty-ninth Regiment Enrolled Missouri Militia, and received a gunshot wound through the body on August 23, 1862, in an engagement with the Confederate forces, and by whom he was taken prisoner.

Evidence of several of his comrades is submitted to prove that claimant was wounded as alleged. Dr. Raines swears that he was called to treat the claimant for a gunshot wound on the 24th of August, and that he was under his treatment for several weeks.

Under date of July 12, 1882, D. V. Van Syckel, examining surgeon, states that he has examined the claimant and finds his injury is one-half of third grade.

The claim was rejected by the Commissioner of Pensions, on the ground that the claimant was in the Missouri Enrolled Militia, and was not in the service of the United States.

It appears from the papers on file that the company of Missouri Enrolled Militia to which claimant belonged was not in the military service of the United States, or under the command of United States officers, but was a military organization under the laws of the State of Missouri at the time claimant was wounded; but it is also clear that claimant did receive a gunshot wound in a skirmish with the enemy while in the militia service in Missouri.

Your committee report the bill favorably, with the recommendation that it pass.

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ONGRESS, } SENATE. { REPORT
Session. } { No. 1111.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1885.—Ordered to be printed.

AMDEN, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 1837.]

*ommittee on Pensions, to whom was referred the bill (S. 1837) for the relief of George P. Howe, have examined the same, and report:*

t the claimant, George P. Howe, late private in Company D, th New Hampshire Volunteers, was pensioned (certificate No. ) June 22, 1865, for gunshot wound of neck and shell wound of , at $8 per month from January 28, 1864, the date of his discharge; per month from June 6, 1866; at $18 per month from June 4, and under the act of March 3, 1883, his pension was increased to er month. It does not appear that any application has been made Department for an increase of the last-named rate.

latest evidence of his physical condition is the certificate of the of examining surgeons of Concord, N. H., dated November 15, as follows:

passed through the back of neck from right to left, just below the edge of hair. atrices not being adherent, and the wound being only a flesh wound the dis- consists mainly in muscular weakness, as the motions of the head are good. oce of shell struck the left edge of sternum over the third and fourth rib, and ntly fractured the sternum. There is adhesion of the pleura, and inability to xpand the lung on left side.

a careful examination in which we have spent considerable time, both in a al examination and in listening to his history, we are of the opinion he is re- quite as much per month as he is entitled to, therefore we find his disability ribed above, and entitling him to total third grade, or $18 per month.

would appear from the above facts, and the papers on file, that this ant has at all times received the highest rating to which his disa- entitled him. Within a year after the examination above quoted ension Office increased his pension to $24, in August, 1883. He sks for $30 per month, but there is nothing before us to warrant an increase.

ur committee do not think it proper to increase the ratings of the rtment, except upon good cause shown, and therefore recommend definite postponment of the bill.

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DO NOT CIRCULATE

TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1112.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1885.—Ordered to be printed.

. CULLOM, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5632.]

*e Committee on Pensions, to whom was referred the bill (H. R. 5632) ranting a pension to Sarah J. Bremmer, respectfully submit the following report:*

After carefully examining the papers in the case, we find the facts to stated correctly in the report of the House Committee on Invalid sions, submitted April 12, 1884, as follows:

e claimant is the widow of William Bremmer, deceased, late captain of Company the Eighteenth and F of the Fifth Wisconsin Volunteers, who enlisted in Janu-, 1862; served until January, 1864, in said Company E, when he was honorably arged because of the expiration of his term of service, and re-enlisted and served id Company F until June, 1865, when he was again honorably discharged.

e soldier made application for pension in July, 1870, and a pension was granted anuary, 1872, and paid until his death, in October, 1873, on account of a gunshot nd received at Sailor's Creek, Virginia, while in action, April 6, 1865. The records that he was treated for that wound in regimental and general hospital. Deed also had varicose veins. The disability was rated as follows: For wound one-th, and for varicose veins also one-fourth, by examining surgeon John Phillips, at two-thirds by examining surgeon G. F. White; each disability specified to be third. Surgeon White describes the disabilities, respectively, as follows:

The said William Bremmer is afflicted with a gunshot wound which appears to been caused by a ball passing in at the inner and upper aspect of the right femur going in an oblique direction downwards. and is found deeply imbedded in the ents of the under and lower portion of the femur, producing difficult mobility e limb, numbness and soreness of the parts. The varicose veins appear, from the nce before me, to be the result of Army service, and to be of long standing, and ause or source of much suffering."

e widow made application for pension in March, 1875, which was rejected in Jan- 1877, upon the ground that the cause of death did not originate in the service e United States. This rejection, as your committee find from a careful examina- f the evidence, is not only erroneous but entirely unwarranted and unsupported. ing it in mind that the deceased was receiving a pension at the time of his death severe gunshot wound in the right thigh, the ball still remaining in his person, or varicose veins, contracted in the Army, we find further that Dr. L. M. Greg- the family physician of the deceased, and who attended him not only during his sickness, but from the time of his discharge from the Army until his decease, tes- that the deceased was a well, healthy, and sound man when he enlisted, but that the time of his return from the Army he suffered from anæmia, which caused him adually waste away until he finally became a mere skeleton, and died of apo- y produced by said predisposing causes; and to the same effect is the testimony e Hon. G. W. Cate, W. H. Buckard, Nelson Gee, and O. H. Lamoreux.

appears incidentally in the case that the deceased was confied for some time in a federate prison, where he suffered greatly from the hardships and diseases in- ed by those so confined.

e widow who now asks for the passage of this bill has three infant children by said late husband, has no property or income, and supports her husband and

family by her own manual labor, and is recommended as in every way worthy of the assistance asked for.

Considering the fact that said soldier served faithfully and honorably for three and a half years; that he re-enlisted at the expiration of his first term of service, two years, and continued in the line of duty until discharged on account of wounds received in battle, and that he was pensioned on account of the disability caused by said wounds; that the wound was of such a character that the ball making it could not be extracted with safety, and that he carried said ball until the time of his death; that he steadily declined in health and strength until he became a mere skeleton, and finally died on account of such debility and wasting away, which commenced and continued from the time he was discharged from the service; and that the testimony of his family physician, who knew him well before his enlistment, and treated him continuously from the time of his discharge until his death, is clear and positive that his death was the result of the injuries he received while in the Army, and that his testimony is abundantly corroborated by his neighbors and acquaintances, your committee unanimously report in favor of said bill, recommend its passage, and ask to be discharged from its further consideration.

Your committee agree with the conclusions reached by the House committee, and recommend the passage of the bill.

H CONGRESS, } SENATE. { REPORT
d Session. } { No. 1113.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1885.—Ordered to be printed.

CULLOM, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 6594.]

*Committee on Pensions, to whom was referred the bill (H. R. 6594) granting a pension to Russell F. Dimmick, respectfully report:*

he facts in this case, as shown by the papers on file in the Pension ce, are set forth in the report of the Committee on Invalid Pensions le to the House of Representatives June 20, 1884, which is as fol- s:

our committee, having examined all the papers in this case, find that Russell F. mick, the claimant, enlisted January 20, 1863, in Company E, First Regiment consin Volunteer Infantry, and was discharged June 15, 1865. The claim for pen- is "that at Chickamauga, Tenn., September 19, 1863, he was struck in the right by a fragment of a shell."

another declaration, made December 24, 1877, he states:

On the march from Nashville, Tenn., to Hoover's Gap, Tenn., from the middle of to August 15, 1863, had his eyes continually filled with dust, which caused in- mation and injury of the optic nerve, also affecting the eyelids, which became ulated, all of which caused partial blindness of both eyes, the right eye being almost totally blind and the other gradually becoming so; that he was also hit the splinter of a shell in the right eye at the battle of Chickamauga on the 19th of September, 1863, which has also helped to cause the blindness as herein stated."

pension in this claim was allowed by the Pension Department January 6, 1880, was suspended September 4 of the same year. The pension was discontinued on ground that the disability of the claimant existed previous to enlistment.

hilip Fay, under date of February 12, 1878, swore as follows:

Have known the claimant for over twenty years—ever since he was a little boy. er knew or heard of his eyesight being impaired prior to his enlistment in the y."

ichael Malone, under date of February 12, 1884, also swears:

Have known claimant nearly all his life, and never heard of his being troubled h any disease of his eyes."

harles C. Kimball, late captain of Company E, First Wisconsin Volunteer In- ry, March 7, 1877, made oath as follows:

The claimant was with me at the battle of Chickamauga, Tenn., September 19, , and was there wounded in the eye with a splinter of a shell."

illiam Colter, late private Company E, First Wisconsin Volunteers, under date of ruary 12, 1878, makes oath:

Claimant was disabled on the line of march from Nashville, Tenn , to Hoover Gap, 863, by getting nearly blind in both eyes on account of dust and sand and a splin- of shell in his eye."

ohn Fitzgerald, under date of June 3, 1879, makes oath as follows:

I know that claimant was disabled in eyesight on line of march to Hoover's Gap, n Nashville, Tenn., about July 2, 1863, by getting sand and dust in his eyes and sing him to be sent back to hospital."

enjamin F. Dieman, late private Company E, First Wisconsin Volunteer Infantry, ler date of June 24, 1879, makes oath:

Claimant got his eyes injured on the march from Nashville to Hoover Gap, Tenn., uly, 1863, which was the cause of his being sent back to the hospital."

family by her own manual labor, and is recommended as in every way worthy of the assistance asked for.

Considering the fact that said soldier served faithfully and honorably for three and a half years; that he re-enlisted at the expiration of his first term of service, two years, and continued in the line of duty until discharged on account of wounds received in battle, and that he was pensioned on account of the disability caused by said wounds; that the wound was of such a character that the ball making it could not be extracted with safety, and that he carried said ball until the time of his death; that he steadily declined in health and strength until he became a mere skeleton, and finally died on account of such debility and wasting away, which commenced and continued from the time he was discharged from the service; and that the testimony of his family physician, who knew him well before his enlistment, and treated him continuously from the time of his discharge until his death, is clear and positive that his death was the result of the injuries he received while in the Army, and that his testimony is abundantly corroborated by his neighbors and acquaintances, your committee unanimously report in favor of said bill, recommend its passage, and ask to be discharged from its further consideration.

Your committee agree with the conclusions reached by the House committee, and recommend the passage of the bill.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1113.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 6594.]

*The Committee on Pensions, to whom was referred the bill (H. R. 6594) granting a pension to Russell F. Dimmick, respectfully report:*

The facts in this case, as shown by the papers on file in the Pension Office, are set forth in the report of the Committee on Invalid Pensions made to the House of Representatives June 20, 1884, which is as follows:

Your committee, having examined all the papers in this case, find that Russell F. Dimmick, the claimant, enlisted January 20, 1863, in Company E, First Regiment Wisconsin Volunteer Infantry, and was discharged June 15, 1865. The claim for pension is "that at Chickamauga, Tenn., September 19, 1863, he was struck in the right eye by a fragment of a shell."

In another declaration, made December 24, 1877, he states:

"On the march from Nashville, Tenn., to Hoover's Gap, Tenn., from the middle of July to August 15, 1863, had his eyes continually filled with dust, which caused inflammation and injury of the optic nerve, also affecting the eyelids, which became granulated, all of which caused partial blindness of both eyes, the right eye being now almost totally blind and the other gradually becoming so; that he was also hit with the splinter of a shell in the right eye at the battle of Chickamauga on the 19th day of September, 1863, which has also helped to cause the blindness as herein stated."

A pension in this claim was allowed by the Pension Department January 6, 1880, but was suspended September 4 of the same year. The pension was discontinued on the ground that the disability of the claimant existed previous to enlistment.

Philip Fay, under date of February 12, 1878, swore as follows:

"Have known the claimant for over twenty years—ever since he was a little boy. Never knew or heard of his eyesight being impaired prior to his enlistment in the Army."

Michael Malone, under date of February 12, 1884, also swears:

"Have known claimant nearly all his life, and never heard of his being troubled with any disease of his eyes."

Charles C. Kimball, late captain of Company E, First Wisconsin Volunteer Infantry, March 7, 1877, made oath as follows:

"The claimant was with me at the battle of Chickamauga, Tenn., September 19, 1863, and was there wounded in the eye with a splinter of a shell."

William Colter, late private Company E, First Wisconsin Volunteers, under date of February 12, 1878, makes oath:

"Claimant was disabled on the line of march from Nashville, Tenn , to Hoover Gap, in 1863, by getting nearly blind in both eyes on account of dust and sand and a splinter of shell in his eye."

John Fitzgerald, under date of June 3, 1879, makes oath as follows:

"I know that claimant was disabled in eyesight on line of march to Hoover's Gap, from Nashville, Tenn., about July 2, 1863, by getting sand and dust in his eyes and causing him to be sent back to hospital."

Benjamin F. Dieman, late private Company E, First Wisconsin Volunteer Infantry, under date of June 24, 1879, makes oath:

"Claimant got his eyes injured on the march from Nashville to Hoover Gap, Tenn., in July, 1863, which was the cause of his being sent back to the hospital."

Joseph Hoskin and D. C. McVean testify substantially as the last two affiants.

Norman Barnes, Patrick Murphy, Dr. I. H. Stevens, and Michael Malone all testify to the condition of claimant's sight since discharge from the Army, and agree that the disability has existed continuously from the date of his discharge.

The surgeon's certificate of discharge, June 16, 1865, reads as follows:

"I find him incapable of performing the duties of a soldier because of loss of right eye, caused by explosion of another soldier's gun, and powder being blown into the eye, incurred while in the line of his duty as a soldier."

The statement of the surgeon seems to differ from the claim of Dimmick that he was hit by a splinter of a shell, but in the haste of making out such reports it is not strange that there should be a slight variance.

At a special examination conducted in November, 1880, by James H. Clements, special agent, several witnesses swear that claimant had sore eyes previous to enlistment; but the fact remains abundantly proven that he was struck in the right eye with fragment of a shell. The examining surgeons certify that "he sees but little with right eye."

Considering all the testimony, your committee recommend the passage of the accompanying bill.

Under the circumstances we believe the soldier entitled to a pension, and therefore recommend the passage of the bill.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1114.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5630.]

*The Committee on Pensions, to whom was referred the bill (H. R. 5630) granting a pension to George W. Rugg, respectfully report as follows:*

We find on examination of the Pension Office papers that the soldier enlisted October 18, 1861, and served as a private in Company M, Fifth New York Cavalry, until discharged, January 17, 1865. He applied for a pension in 1877, alleging that he had received a gunshot wound of the right arm in battle, which was dressed by a rebel doctor at Fredericksburg; that he contracted rheumatism and chronic diarrhea during his confinement of fourteen months in rebel prisons, most of the time at Andersonville; and that since his discharge he has been disabled by varicose veins and chronic diarrhea. His claim was rejected because there was no record of his wound, and he was unable to furnish the testimony required as to the origin of his diseases in the prison pen at Andersonville. The prisoner of war records show that the soldier was captured and paroled as claimed. Orlean De Witt, who was quartermaster-sergeant of Rugg's company, testifies that the soldier was healthy and strong while with his regiment, and that when affiant was lodged in the prison pen at Andersonville he found Rugg suffering very severely with chronic diarrhea and scurvy, which caused his legs to be very much swollen. The evidence in the case tends to show the existence of varicose veins and chronic diarrhea since the soldier's return home in 1865, and the examining surgeon in 1877 reported Rugg permanently disabled, and rated his disability at that time at three-fourths.

We consider this claim a just one, and recommend the passage of the bill.

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48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1115.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1885.—Ordered to be printed.

Mr. VAN WYCK, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 2453.]

*The Committee on Pensions, to whom was referred the bill (H. R. 2453) granting a pension to Frank S. Marsh, have examined the same, and report:*

Frank S. Marsh enlisted as a private in Company K, Ninth Regiment Illinois Cavalry Volunteers, on the 11th day of January, 1862, and was discharged June 10, 1865, by reason of expiration of term of enlistment.

Claimant filed application for pension in the Pension Office on the 23d day of June, 1870. Alleged disability, hepatitis, caused by exposure on the march between Jackson and Helena, Ark., in June, 1862. His application was rejected by the Pension Office on the ground that there has been no disability from the cause alleged since discharge; also, that his present disability is not due to any disease acquired in the United States service. The evidence and records of the Surgeon-General's Office show that the claimant was in the hospital for months at a time during his term of service, and on the hospital records he is shown to have had, in 1864, chronic hepatitis. The disability is shown to be one-half for the performance of manual labor.

The claimant is alleged to be in very indigent circumstances, and your committee cannot for a moment doubt the justice of granting a pension in this case. The proof is conclusive that the claimant was strong and robust when he entered the service; was sick in the service; came home, after three years' duty, broken in health, and continued disabled, and the disability increasing from the disease contracted in the service; and your committee recommend the passage of the bill.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1116.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 2452.]

*The Committee on Pensions, to which was referred the bill (S. 2452) granting a pension to Mary M. J. Frouk, has examined the same, and reports:*

That the Commissioner of Pensions, in his letter transmitting the papers in this case to the committee, says:

The widow was pensioned in 1876 at $30 per month from August 15, 1876, the date of the approval of the special act of Congress authorizing the pension.

This seems to leave no ground for further action in this case, and the bill therefore is reported adversely, with a recommendation that it be indefinitely postponed.

O

8TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1117.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 435.]

*The Committee on Pensions, to which was referred the bill (H. R. 435) granting a pension to Samuel W. Tracy, has examined the same, and reports:*

That the Commissioner of Pensions, in his letter transmitting the papers in this case to the committee, says that—

The soldier alleges injury to back, causing disease of the kindeys, incurred December 18, 1864, near Savannah, Ga. The claim was rejected in 1879, on the ground that the applicant was not disabled in a pensionable degree from the alleged cause, but from a medical examination had in 1882 it appears that he is slightly disabled, and the claim has been taken up for consideration, and now awaits evidence to establish origin, called for in recent communications addressed to claimant's attorneys.

In view of this condition of the case, and the fact that the medical examination referred to by the Commissioner of Pensions in the foregoing letter rates the degree of disability at only one-fourth, although seventeen years have elapsed since the alleged incurrence of said disability; and in view of the further fact that if claimant can supply the evidence called for, as above stated, he will be entitled to arrearages, the committee is of opinion that the claim had better be left to take the usual course in the Pension Office under existing law; and, without prejudice to the case in its further consideration in that office, the bill is reported adversely, with a recommendation that it be indefinitely postponed.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1118.

IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 1924.]

*The Committee on Pensions, to which was referred the bill (H. R. 1924) granting a pension to Thomas Simpson, has examined the same, and reports:*

That the Commissioner of Pensions, in a letter transmitting the papers in this case to the committee, says:

The soldier alleges injury to sight and hearing, caused by the concussion from a bursting shell at Atlanta, Ga., July 18, 1864. The claim stands rejected on the ground that the applicant has not been disabled from the alleged cause since date of discharge.

The medical examinations made of this claimant and reported, clearly sustain this action of the Pension Office.

Examining Surgeon H. D. Henderson, in his report of January 24, 1867, says:

After a careful examination of the applicant I can discover nothing wrong in his physical organization.

Examining Surgeon B. W. Tucker, April 1, 1869, reports:

I have carefully examined him, and no injury is presumable except what can be readily accounted for by his age and habits.

The Board of Examining Surgeons at Louisville, Ky., November 5, 1874, reported that the claimant "is an applicant for an invalid pension by reason of alleged disability resulting from concussion of shell, loss of sight, and deafness. In our opinion the said Simpson is not incapacitated for obtaining his subsistence by manual labor from the cause stated."

The Board gave the applicant no rating for a pension, and the committee does not find in the evidence before it sufficient ground on which to base a favorable report of this bill. It is therefore reported adversely, with a recommendation that it be indefinitely postponed.

O

TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1119.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1885.—Ordered to be printed.

. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 7141.]

*e Committee on Pensions, to which was referred the bill (H. R. 7141) rranting a pension to Daniel W. Adams, has examined the same, and eports:*

That from an examination of the record and evidence in this case the mittee is led to concur in the report made to the House of Repre- ntatives by its Committee on Invalid Pensions, and which is here oted as follows, viz:

hat claimant enlisted in the military service of the United States as a private in npany A, Ninety-third Regiment Indiana Volunteers, August 9, 1862, and was dis- rged on surgeon's certificate of disability, February 11, 1863.

une 23, 1880, he filed a declaration for pension (alleging that a cold contracted at lison, Ind., November 10, 1862, resulted in disease of heart and lungs), which was cted May 5, 1883, on the ground that disability is not due to military service.

is shown by both medical and lay testimony that claimant was a sound, healthy n prior to and at the time of his enlistment in the military service of the United tes.

is disclosed by the evidence of two of the commissioned officers of claimant's pany and three or four comrades of the soldier that, while in camp at Indian- lis, Ind., soldier contracted disease of heart and lungs, and that at Madison, Ind., vas compelled, by reason of his disability, to go to hospital, where he was treated; the character of disability is not disclosed by the record.

he surgeon's certificate of disability for the discharge of the soldier says the dis- ity existed prior to enlistment.

he existence of disease of heart and lungs, for which the soldier was discharged, hown to have continued from the time of its incurrence while in the military ice and in line of duty to the present time. And the United States examining eon, Columbus, Ind., in an examination of the soldier, January 12, 1882, reports totally disabled from this disability.

is case was investigated in March, 1883, by a special examiner of the Pension Of- In this examination Dr. John S. Arwine, of Columbus Ind., testifies to an ac- intance with claimant from 1856 to the date of his enlistment, and that he was a d man at the time of his said enlistment.

aniel H. Sharp, of Columbus, Ind., testifies, March 23, 1883:

That he has known claimant since 1857; lived about one-half mile from him from to July, 1861; saw him almost every day; he was then as stout a young fellow here was in the neighborhood, and was so up to July, 1861, when I enlisted in the ay; saw him at log-rollings, and he was as good a lifter as we had; but at jump- he was never behind; I have often seen him run, jump, and lift; never knew him e sick in any way."

ohn White, of Columbus, Ind., testifies, April 2, 1883:

That he has known claimant since August, 1861; lived within three-fourths of a of him, and in the fall of 1861 shucked corn with him in the same field, and w him well from that time until after harvest, 1862; saw him every two or three s; worked together about two months of that time, chopped wood together, and lped him in harvest time, 1862; he was then a good, sound man; did a good, fair s work; and I never knew or heard of his being sick any of that time."

James E. Hammond, of Columbus, Ind., says:

"I first knew claimant in 1860, and have known him ever since; worked with him from August, 1860, to March, 1861. During part of the time we eat together and slept and worked together; he was then a stout, able-bodied man."

This testimony given above is very fully corroborated by all the witnesses examined by the special examiner from the Pension Office; all were neighbors and intimate acquaintances of claimant prior to and at the time of his enlistment, and the testimony as to the soundness of the soldier at the time of his enlistment is conclusive.

There is no doubt in the case as to the right of this soldier to a pension, and your committee recommend the passage of the accompanying bill.

Concurring in this report, the committee reports, the bill to the Senate, with a recommendation that it do pass.

CONGRESS, Session. | SENATE. | REPORT No. 1120.

# IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1885.—Ordered to be printed.

ALLISON, from the Committee on Appropriations, submitted the following:

# REPORT:

[To accompany bill H. R. 7857.]

*Committee on Appropriations, to whom was referred bill H. R. 7857, ing considered the same, beg leave to submit the following report:*

## CONSULAR AND DIPLOMATIC SERVICE, 1886.

| | |
|---|---|
| it of estimates for 1886 | $1,623,176 75 |
| it of House bill | $1,169,585 00 |
| se made by Senate committee | 120,340 00 |
| Total as reported to the Senate | 1,289,925 00 |
| it of appropriations for 1885 | $1,215,140 00 |
| ll as reported less than estimates | 333,251 75 |
| ll as reported exceeds the appropriations for 1885 | 74,785 00 |

items of increase and reduction made by the committee on the 3 bill are as follows:

INCREASE.

| | |
|---|---|
| nister resident and consul-general at Roumania, Servia, and Greece | $6,500 |
| penses of Congo Valley Agency | 5,000 |
| itoring salary of interpreter to legation in Turkey | 300 |
| terpreter to legation in Corea | 1,000 |
| penses in extradition cases | 5,000 |
| penses under the neutrality act | 12,000 |
| e establishment of electrical units | 3,000 |
| it of buildings for legation and other purposes in China | 3,100 |
| aries of consuls-general at Constantinople and Rome | 2,000 |
| aries of thirteen consular clerks | 1,500 |
| itoring salary of consul at Hankow | 2,000 |
| owance for clerks at consulates | 1,440 |
| terpreters to consulates in China and Japan | 2,000 |
| erpreters and guards at consulates in Turkish dominions | 1,000 |
| aries of marshals for consular courts in Japan, China, and Turkey | 1,000 |
| ing of steam-launch for legation at Constantinople | 500 |
| pense of prison at the consulate-general in Bangkok, Siam | 300 |
| pense of keeping and feeding prisoners in China, Japan, Siam, and ey | 1,500 |
| ief and protection of American seamen | 10,000 |
| ipping and discharging seamen at Liverpool, London, Cardiff, Belfast, Hamburg | 6,000 |
| it for consul-general at London | 2,400 |
| it for consul-general at Paris | 2,000 |
| pense of obtaining documents, &c., in France, relating to the French ation claims | 5,000 |
| ble the President to meet unforeseen emergencies in the diplomatic and ular service, and to extend the commercial interests of the United es | 50,000 |
| Total increase | 124,540 |

REDUCTION.

| | |
|---|---|
| For salaries of second secretaries of legations in Japan and China | $1,200 |
| For salary of the consul-general at Bucharest | 3,000 |
| Total reduction | 4,200 |
| Net increase | 120,340 |

The following table shows in a comparative way the appropriations for 1885, the estimates for 1886, the amounts provided by the House bill, and the amounts recommended by the Senate Committee on Appropriations for 1886:

*Comparative statement showing the appropriations for* 1885; *the estimates for* 1886; *the amounts of House bill; and the amounts recommended by the Senate Committee on Appropriations for* 1886.

| Object. | Appropriations, 1885. | Estimates, 1886. | House bill, 1886. | Senate committee, 1886. |
|---|---|---|---|---|
| *Salaries of ministers.* | | | | |
| Great Britain, France, Germany, and Russia, at $17,500 each | $70,000 00 | $70,000 00 | $70,000 00 | $70,000 00 |
| Japan, China, Spain, Austria, Italy, Brazil and Mexico, at $12,000 each | 84,000 00 | 84,000 00 | 84,000 00 | 84,000 00 |
| Chili and Peru, at $10,000 each | 20,000 00 | 20,000 00 | 20,000 00 | 20,000 00 |
| United States of Colombia | 7,500 00 | 10,000 00 | 7,500 00 | 7,500 00 |
| Turkey | 7,500 00 | 10,000 00 | 7,500 00 | 7,500 00 |
| Corea | 5,000 00 | 10,000 00 | 5,000 00 | 5,000 00 |
| Guatemala, Costa Rica, Honduras, Salvador, and Nicaragua | 10,000 00 | 10,000 00 | 10,000 00 | 10,000 00 |
| Belgium, Netherlands, Hawaiian Islands, Sweden and Norway, Venezuela, and Argentine Republic, at $7,500 each | 45,000 00 | 45,000 00 | 45,000 00 | 45,000 00 |
| Switzerland, Denmark, Portugal, Liberia, Bolivia, Hayti, Persia, and Siam, at $5,000 each | 40,000 00 | 40,000 00 | 40,000 00 | 40,000 00 |
| Roumania, Servia, and Greece | ..... | 6,500 00 | ..... | 6,500 00 |
| Cairo, agent and consul-general at | ..... | 5,000 00 | 5,000 00 | 5,000 00 |
| Congo Association, agent and consul-general to | 5,000 00 | 5,000 00 | 5,000 00 | 5,000 00 |
| Paraguay and Uruguay, chargé d'affaires | 5,000 00 | 5,000 00 | 5,000 00 | 5,000 00 |
| Chargé d'affaires *ad interim*, and diplomatic officers abroad | 12,000 00 | 20,000 00 | 12,000 00 | 12,000 00 |
| Total, ministers | 311,000 00 | 340,500 00 | 316,000 00 | 322,500 00 |
| *For secretaries, interpreters, and clerks to legations.* | | | | |
| London, Paris, Berlin, and Saint Petersburg, secretaries, at $2,625 each | 10,500 00 | 10,500 00 | 10,500 00 | 10,500 00 |
| China, secretary | 2,625 00 | 2,000 00 | 2,625 00 | 2,625 00 |
| Japan, secretary | 2,625 00 | 2,625 00 | 2,625 00 | 2,625 00 |
| Spain, Austria, Italy, Brazil, and Mexico, secretaries, at $1,800 each | 9,000 00 | 9,000 00 | 9,000 00 | 9,000 00 |
| Turkey, secretary | 1,800 00 | 2,500 00 | 1,500 00 | 1,500 00 |
| Chili, secretary | 1,500 00 | 1,800 00 | 1,500 00 | 1,500 00 |
| Peru, secretary | 1,500 00 | 1,800 00 | 1,500 00 | 1,500 00 |
| London, Paris, and Berlin, second secretaries, at $2,000 each | 6,000 00 | 6,000 00 | 6,000 00 | 6,000 00 |
| Japan and China, second secretaries, at $1,800 each | 3,600 00 | ..... | 3,000 00 | 2,400 00 |
| China, interpreter to legation | 3,000 00 | 5,000 00 | 3,000 00 | 3,000 00 |
| Japan and Turkey, interpreters to legations, at $2,500 each | 5,000 00 | 5,000 00 | 5,000 00 | 5,000 00 |
| Persia, interpreter to legation and consulate-general | ..... | 1,000 00 | 1,000 00 | 1,000 00 |
| Corea, interpreter to legation | ..... | 1,000 00 | ..... | 1,000 00 |
| Spain, clerk to legation | 1,200 00 | 1,200 00 | 1,200 00 | 1,200 00 |
| Central America, clerk to legation | ..... | 1,000 00 | ..... | ..... |
| Bogota, secretary of legation and consul-general | 2,000 00 | 2,000 00 | 2,000 00 | 2,000 00 |
| Central American States, secretary of legation and consulate-general at Guatemala | 2,000 00 | 2,000 00 | 2,000 00 | 2,000 00 |
| Total, secretaries, interpreters, and clerks | 53,350 00 | 55,425 00 | 53,050 00 | 53,150 00 |

*Comparative statement showing the appropriations for* 1885, *&c.*—Continued.

| Object. | Appropriations, 1885. | Estimates, 1886. | House bill, 1886. | Senate committee, 1886. |
|---|---|---|---|---|
| IPLOMATIC SERVICE, MISCELLANEOUS. | | | | |
| gent expenses, diplomatic service | $75,000 00 | $90,000 00 | $75,000 00 | $75,000 00 |
| ıg home criminals | 5,000 00 | 5,000 00 | 5,000 00 | 5,000 00 |
| bills of exchange, diplomatic service | 2,000 00 | 2,000 00 | 2,000 00 | 2,000 00 |
| ıd costs in extradition cases | 5,000 00 | 5,000 00 | | 5,000 00 |
| ıtional boundary survey, United States Mexico | | 224,556 75 | | |
| ıtional commission, electrical units | 3,000 00 | 3,000 00 | | 3,000 00 |
| buildings, &c., for legation in China | 3,100 00 | 3,100 00 | | 3,100 00 |
| s of legation buildings at Tangier | | 2,500 00 | 2,500 00 | 2,500 00 |
| ıse of buildings for legation in Corea | | 3,200 00 | | |
| ıes of Cape Spartel and Tangier light | 300 00 | 325 00 | 325 00 | 325 00 |
| ıes under the neutrality act | | 20,000 00 | | 12,000 00 |
| ar and commercial reports | 20,000 00 | 40,000 00 | 20,000 00 | 20,000 00 |
| ıtional bureau of weights and measures | 2,270 00 | 2,270 00 | 2,270 00 | 2,270 00 |
| orting remains of ministers and consuls to the United States | 10,000 00 | 10,000 00 | 10,000 00 | 10,000 00 |
| ıtional prison commission | 250 00 | | | |
| Total diplomatic service, miscellaneous | 125,920 00 | 410,951 75 | 117,095 00 | 140,195 00 |
| *Consuls-General.* | | | | |
| ı, Paris, Havana, and Rio de Janeiro, ,000 each | 24,000 00 | 24,000 00 | 24,000 00 | 24,000 00 |
| ta and Shanghai, at $5,000 each | 10,000 00 | 10,000 00 | 10,000 00 | 10,000 00 |
| ırne | 4,500 00 | 4,500 00 | 4,500 00 | 4,500 00 |
| Panama, Montreal, and Kanagawa, at ) each | 16,000 00 | 16,000 00 | 16,000 00 | 16,000 00 |
| ılu, in lieu of consul, at $4,000 | 4,000 00 | 4,000 00 | 4,000 00 | 4,000 00 |
| fort, Vienna, Saint Petersburg, and fax, at $3,000 each | 12,000 00 | 12,000 00 | 12,000 00 | 12,000 00 |
| rest | 3,000 00 | 3,000 00 | 3,000 00 | |
| or | 3,000 00 | 3,000 00 | 3,000 00 | 3,000 00 |
| ntinople | 2,000 00 | 3,000 00 | 2,000 00 | 3,000 00 |
| | 2,000 00 | 3,000 00 | 2,000 00 | 3,000 00 |
| ) | 2,500 00 | 2,500 00 | 2,500 00 | 2,500 00 |
| l | | 2,500 00 | | |
| ıow consul, at $1,500 | | 3,000 00 | | |
| oras, now consul, at $2,000 | | 3,000 00 | | |
| ool, consul | 6,000 00 | 6,000 00 | 6,000 00 | 6,000 00 |
| Kong, now consul | 5,000 00 | 5,000 00 | 5,000 00 | 5,000 00 |
| Total, consuls-general | 94,000 00 | 104,500 00 | 94,000 00 | 93,000 00 |
| *Consular service, &c.* | | | | |
| s, vice-consuls, and commercial agents | 317,000 00 | 325,500 00 | 316,500 00 | 318,500 00 |
| en consular clerks | 14,600 00 | 14,600 00 | 13,000 00 | 14,500 00 |
| at consulates specified | 47,920 00 | 67,500 00 | 47,840 00 | 49,280 00 |
| at consulates specified, additional | | 4,000 00 | | |
| at consulates not herein provided for | 6,000 00 | 10,000 00 | 10,000 00 | 10,000 00 |
| ar officers, not citizens of the United es | 6,000 00 | 10,000 00 | 6,000 00 | 6,000 00 |
| reters to consulates at Shanghai, Tien-Foo-Chow, and Kanagawa, at $2,000 | 8,000 00 | 8,000 00 | | |
| reters to consulates in China and Japan | | | 10,000 00 | 12,000 00 |
| reters to consulates at Hankow, Amoy, on, and Hong-Kong, at $750 each | 3,000 00 | 4,000 00 | | |
| reters to other consulates in China, n, and Siam | | 5,000 00 | | |
| onal allowance for interpreters in a, Japan, Corea, Siam, Turkey, and ia | | 5,000 00 | | |
| reters, guards, &c., at consulate, at tantinople, Smyrna, Cairo, Jerusalem, Beirut | 3,000 00 | 5,000 00 | 3,000 00 | 4,000 00 |
| reter to legation and consulate-general at Bangkok | 500 00 | | | 500 00 |
| ses of prison at Bangkok | 1,000 00 | 1,000 00 | 1,200 00 | 1,000 00 |
| als for consular courts in Japan, China, Turkey | 8,000 00 | 8,000 00 | 7,000 00 | 8,000 00 |
| als for consular courts in Siam and a | | 2,000 00 | | |
| launch for legation at Constantinople | 500 00 | 1,000 00 | 500 00 | 1,000 00 |
| nd crew at Osaka and Hiogo | | 500 00 | | |
| nd crew at Bangkok | | 500 00 | | |

*Comparative statement showing the appropriations for* 1885, *&c.*—Continued.

| Object. | Appropriations, 1885. | Estimates, 1886. | House bill. 1886. | Senate committee. 1886. |
|---|---|---|---|---|
| FOR DIPLOMATIC SERVICE, MISCELLANEOUS—Continued. | | | | |
| *Consular service, &c.*—Continued. | | | | |
| Loss by exchange, consular service | 3,000 00 | 3,000 00 | 3,000 00 | 3,000 00 |
| Contingent expenses, consular service | 110,000 00 | 150,000 00 | 110,000 00 | 110,000 00 |
| Expenses of prison at Shanghai, China | 1,550 00 | 2,050 00 | 1,550 00 | 1,550 00 |
| Expenses of prison at Kanagawa, Japan | 1,400 00 | 1,400 00 | 1,550 00 | 1,550 00 |
| Expenses of keeping prisoners in China, Japan, Siam, and Turkey | 7,500 00 | 7,500 00 | 7,500 00 | 9,000 00 |
| Rent of prisons for American convicts in Turkey | 1,000 00 | 2,000 00 | 1,000 00 | 1,000 00 |
| Rent of court-house and jail at Yeddo, Japan | ..... | 3,850 00 | ..... | ..... |
| Relief and protection of American seamen | 40,000 00 | 50,000 00 | 40,000 00 | 50,000 00 |
| Contribution to foreign hospital at Panama | 300 00 | 500 00 | 300 00 | 300 00 |
| Rescuing shipwrecked American seamen | 4,500 00 | 4,500 00 | 4,500 00 | 4,500 00 |
| Shipping and discharging seamen at Liverpool, London, Cardiff, Belfast, and Hamburg | 6,000 00 | 6,000 00 | ..... | 6,000 00 |
| Allowance to widows of consular and diplomatic officers dying abroad | 5,000 00 | 5,000 00 | 5,000 00 | 5,000 00 |
| Rent for consul-general at London | ..... | 2,400 00 | ..... | 2,400 00 |
| Rent for consul-general at Paris | ..... | 2,000 00 | ..... | 2,000 00 |
| Repairing monument to B. A. Bidlack | 600 00 | ..... | ..... | ..... |
| Expenses of agency in Congo Valley | 10,000 00 | ..... | ..... | 5,000 00 |
| Salaries of Commissioners to South and Central American States | 22,500 00 | ..... | ..... | ..... |
| Salary of secretary to said Commission | 3,000 00 | ..... | ..... | ..... |
| For expenses of obtaining copies of records and documents in France relating to the French spoliation claims | ..... | ..... | ..... | 5,000 00 |
| To enable the President to meet unforeseen emergencies in the diplomatic and consular service and to extend the commercial interests of the United States | ..... | ..... | ..... | 50,000 00 |
| Total, consular service, &c | 631,870 00 | 711,800 00 | 589,440 00 | 681,000 00 |
| Grand total, consular and diplomatic service | 1,215,140 00 | 1,623,176 75 | 1,169,585 00 | 1,289,925 00 |

TREASURY DEPARTMENT,
*January* 24, 1885.

SIR: Referring to House bill No. 7857 "Making appropriations for the consular and diplomatic service for the fiscal year ending June 30, 1886, and for other purposes," page 18, lines 423, 424, and 425, being for relief and protection of American seamen, $40,000, I have the honor to transmit herewith copy of letter of the Secretary of State of the 22d instant recommending that the sum be increased to $50,000.

Very respectfully,

H. McCULLOCH,
*Secretary.*

Hon. WILLIAM B. ALLISON,
*Chairman Committee on Appropriations, United States Senate.*

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DEPARTMENT OF STATE,
*Washington, January* 22, 1885.

SIR: I have the honor to acknowledge the receipt through reference from you of a letter from the Fifth Auditor suggesting that the appropriation for the relief of seamen be increased $10,000, placing it at $50,000. The Auditor states that "this would be a wise precautionary measure against embarrassment otherwise likely to occur in the adjustment of relief accounts for want of funds with which to pay them. The increased expenditure for the relief of seamen under the act of June 26, 1884, is already indicated by the large number of seamen being sent home on consular certificates, while very little is obtained on account of extra wages collected for discharged seamen."

In my opinion, and for the reasons cited by the Auditor, I am of the opinion that

the appropriation named should be so increased, and I strongly recommend the same, requesting that the matter be brought to the attention of Congress in the manner provided by law.

I have the honor to be, sir, your obedient servant,

FRED'K T. FRELINGHUYSEN.

Hon. HUGH McCULLOCH,
*Secretary of the Treasury.*

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DEPARTMENT OF STATE,
*Washington, December* 10, 1884.

SIR: I have the honor to inclose herewith for your information and such proceeding as you may deem advisable a copy of a dispatch from the consul-general at London, under date of the 17th ultimo, with a copy of a dispatch from the consul-general at Paris, under the same date, both relating to the storage and preservation of the archives of their respective offices.

I have the honor to commend the representations made by these officers to the favorable consideration of your committee and of Congress, with the request that the necessary steps may be taken to secure the appropriations for the purpose indicated.

I have the honor to be, sir, your obedient servant,

FRED'K T. FRELINGHUYSEN.

Hon. WILLIAM B. ALLISON,
*Chairman of the Committee on Appropriations, Senate.*

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WASHINGTON, *November* 17, 1884.

SIR: I learn from my colleague, the consul-general of London, and from the Auditor and Comptroller of the Treasury, that the accounts for storage of archives, rendered by the consul-general at London, have been suspended for want of legal authority to allow them, and that similar action will be taken upon the Paris accounts when received. I hasten, therefore, to say that the rooms devoted to the storage of archives in Paris were hired by me under the direct authority of Secretary of State, previously obtained, and the rental paid for them, $800, had his previous sanction. The accumulation of these archives had become very burdensome in the old consulate, and with the rapid increase of business, special rooms for their reception and preservation had become absolutely necessary. In the new premises leased by me in April last, under authority of the Department, there are three rooms exclusively devoted to that purpose.

These rooms, owing to the construction of Paris houses, could not have been leased separately from the suite.

It is essential that the archives should be within the immediate reach of the consular officers.

From 1878 to 1883 the official fees accounted for to the Government increased at Paris from $38,000 to $64,000, or more than than 68 per cent., involving a great increase of the number of invoices. The only other consulates which can be thus burdened are those at London and Liverpool, and as the salary of consuls, on which the allowance for rent is predicated, does not increase with the increase of business, it would seem only reasonable that storage of archives should be separately provided for in those cities. New consular offices had been long imperatively needed in Paris, and it was only with great difficulty and after long search that I was able to secure those now occupied in which the current business of merchants and travelers, and the preservation of the public records, are both amply and conveniently provided at an aggregate rental, including storage, of $2,000. This sum, in the second largest city in the world and in the best part of the city, is extremely moderate.

I earnestly request that if existing legislation is inadequate to cover the sums which I have thus paid and engaged to pay, Congress may be asked to make appropriation for the excess already expended, and to authorize the continuance of a similar expenditure in future.

With high respect, I am, your obedient servant,

GEORGE WALKER,
*Consul-General.*

Hon. JOHN DAVIS,
*Assistant Secretary of State.*

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CONSULATE-GENERAL OF THE UNITED STATES,
*London, written at Washington, November* 17, 1884.

SIR: I have the honor to call your attention to the subject of the rental of offices for the use of the consulate-general in London, and rooms for the storage and preserva-

tion of archives, &c. The amount authorized for the storage and care of archives, viz: $916.92 per annum, has been suspended by the First Comptroller of the Treasury, as not allowable under the statutory provisions. In answer as explanation, I write as follows:

"The item of $229.23* suspended as charge for storage of archives, &c. I have to state that after the most painstaking and long-continued efforts to secure suitable rooms for the official business of the consulate-general, and properly store the large and ever-increasing quantities of records within the area which would accommodate the importing business community, from whom the official fees are nearly all derived, it was found absolutely impossible to do so, except at a largely increased rental. In fact, the present quarters were the only ones available which met the conditions required, and, moreover, the rent demanded compared favorably with the rates asked for other and less desirable quarters."

The lease began to run June 24, 1883, the amount therefore to be provided for before the close of the fiscal year ending June 30, 1885, would be $1,833.84, and the terms of the lease require six months' notice to be given at the half year, so that I shall be held responsible in any event to the full amount to June 24, 1885.

I recommend that an appropriation be asked to cover the rent of offices, storage of archives, and incidental expenses connected therewith—the sum at $2,400 per annum instead of the present statutory allowance.

I am, sir, very respectfully,

E. A. MERRITT,
*Consul-General.*

Hon. JOHN DAVIS,
*Assistant Secretary of State.*

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DEPARTMENT OF STATE,
*Washington, January* 23, 1885.

SIR: I have the honor to bring to your attention the inclosed copy of a letter addressed to the chairman of the Committee on Appropriations of the House of Representatives of the 13th instant, relative to the necessity of an appropriation of $224,556.75 in order to carry into effect our treaty provisions with Mexico. It is necessary that this amount should be provided for either in the present bill for the diplomatic and consular service or elsewhere, to enable this Government to meet its international obligations.

I have the honor to be, sir, your obedient servant,

FRED'K T. FRELINGHUYSEN.

Hon. WM. B. ALLISON,
*Chairman Committee on Appropriations, United States Senate.*

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DEPARTMENT OF STATE,
*Washington, January* 13, 1885.

SIR: In the estimates of this Department for the coming fiscal year is an item of $224,556.75 for the purpose of resurveying and re-establishing the boundary line between Mexico and the United States in conformity with the treaty of July 29, 1882. That item has been omitted from the diplomatic and consular appropriation bill reported to the House from your committee. I observe that in the proceedings of the Committee of the Whole on Saturday last, the 10th instant, Mr. Burnes, the reporter of the bill, stated the reasons for this omission. As the reasons appear to rest in some respects upon misunderstanding of the facts, I think it proper to address your committee on the subject.

It is stated that while the treaty provides that representatives of the Mexican Government should meet the representatives of this Government in the preliminary survey and reconnaissance, they were not present; that they have made no report to their Government, as provided for by the treaty; that no international boundary commission, as required by the treaty, has been organized, nor have any estimates of the cost been made by this commission, as required by that treaty. From this it is concluded that so many things remain undone which the treaty requires to be done (before the Mexican Government would be bound to us for one-half the cost of the work) that it is improper at this time to make an appropriation for that purpose.

Article I of the treaty, which provides for preliminary reconnaissance to be made by commissions acting in concert, but each making report to its own Government, has been fulfilled in fact, though not literally. The preliminary reconnoitering party, under Lieut. W. Symons, went over the entire line covered by the treaty. The Mexican preliminary reconnoitering party, duly appointed, under General Revueltas,

* The above amount is for one quarter.

likewise actually examined a part of the line and made a report to its Government, as contemplated in the treaty. Lieutenant Symons duly made his report to this Government. The two reports have been exchanged between the two Governments, and they are in substantial accord as to the manner of executing the resurvey.

In the second place each Government has appointed its members of the International Boundary Commission. The Mexican members proceeded to El Paso, as required by Article II, within the time prescribed, there to await the coming of the United States Commissioners. This Government was unable to instruct its Commissioners to proceed to El Paso, there to begin the actual work of locating and setting up the monuments, because it was without any appropriation to defray the expenses of the Commission, and under the general law was unable to incur any obligation for future expenditures not authorized by existing statutes. This fact was explained to the Mexican Government, with the promise that so soon as Congress should provide for the execution of the treaty the Commission, which we had already appointed, would at once proceed to El Paso, there to meet the Mexican Commission.

The failure of the Commissions to meet, which appears to be the main reason for not now making an appropriation, is in fact due to the failure of Congress heretofore to appropriate for such a Commission. If the arguments which are said to have been advanced are correctly understood, it is not evident how any Commission can ever begin the work under the terms of the treaty, for it cannot begin work until authorized by law and due provision made for its expenses, and that provision cannot be made, as it would appear, until it has actually begun work. In the third place, the preliminary estimates called for by Article VII of the treaty have been in fact made as the results of the labors of the preliminary reconnaissance parties. Although not made by the engineers-in-chief of the respective Commissions in concert, the estimate of the War Department has been submitted to the Mexican Government and accepted by it with some slight modifications of detail which will not materially affect the total one way or the other. For instance, while the United States estimate recommends heavier and more costly monuments than those described in Article IV, the Mexican Government prefers that the specifications of the treaty should be adhered to.

It is suggested that the appropriation might with more propriety be included in the sundry civil bill than in the diplomatic and consular bill. It is, of course, quite immaterial through what formalities of legislation Congress may provide for the execution of an international treaty, the fact of execution being the only essential point.

With the object of opening a way out of the present situation, I may be permitted to suggest that the execution of the treaty of July 29, 1882, be provided for by a separate act authorizing the appointment of the international boundary commissioners and making an initial appropriation toward their expenses, to be followed in the succeeding years by such further appropriation as that commission shall ascertain to be necessary for the completion of the work.

The correspondence with the Mexican Government concerning this question is quite voluminous. Much of it has been already published for the information of Congress, and I inclose herewith copies of the Executive Documents containing it.

With the facts before you as stated, I trust that your committee will see the propriety of some action during the present session, for if no steps be now taken to execute the treaty it will be too late to do so at the next session in December, and the treaty will fall through by the failure of this Government to carry it out. This would of course create an embarrassing situation.

As to the need of replacing the destroyed or missing monuments and setting others closer together upon parts of the line which were unsettled at the time of the original survey, but are now populous, there can be no question. The exigencies of the customs service alone, on a frontier exposed to much illegitimate traffic, would require a precise demarcation of the boundary.

I have, &c.,

FRED'K T. FRELINGHUYSEN.

Hon. SAMUEL J. RANDALL,
*Chairman Committee on Appropriations, House of Representatives.*

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1121.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1885.—Ordered to be printed.

Mr. VANCE, from the Committee on the District of Columbia, submitted the following

# REPORT:

[To accompany bill H. R. 7895.]

*The Committee on the District of Columbia, to whom was referred the bill (H. R. 7895) for the regulation of the practice of dentistry in the District of Columbia, and for the protection of the people of said District from empiricism in relation thereto, having considered the same, report as follows:*

The object of this bill is to protect the public as far as possible, and to place a reasonable safeguard between the community and those to whom they commit their health and lives. The necessity for the passage of such a measure is apparent from the number of cases which have been brought to the attention of your committee, in which, through ignorance and malpractice, permanent injury has resulted to the patients, and their lives been seriously endangered. Many of the States of the Union have passed similar statutes, and, as we believe reasonable restrictions are right and proper for the protection of persons where their lives or health are at stake, we return said bill with the recommendation that it do pass.

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3TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1122.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1885.—Ordered to be printed.

Ir. VANCE, from the Committee on the District of Columbia, submitted the following

# REPORT:

[To accompany bill H. R. 5650.]

*The Committee on the District of Columbia, to whom was referred bill H. R. 5650, having considered the same, report as follows:*

The object of this bill is to provide sufficient dissecting material for he medical colleges of the District of Columbia and to afford better rotection to the graves of the dead from desecration. The report made n said bill and submitted to the House of Representatives states fully ie objects and the necessity for its passage, with which your committee gree, and herewith incorporate same as a part of their report, as llows:

The Committee on the District of Columbia, to whom was referred House bill 5650, itled "A bill for the promotion of anatomical science and to prevent the desecra- n of graves," having had the same under consideration, report it back with a orable recommendation.

The object of the bill is twofold: First, and chiefly, to provide sufficient dissecting terial for the medical colleges of the District of Columbia; and, secondly, and in- ectly, to afford better protection to the graves of the dead from desecration.

There are now several flourishing medical schools in Washington well established, l one or more of them of long standing. It is known to all that such institutions not be carried on or proper training for the practice of medicine and surgery be en without ample experience in the dissection of the human *cadaver*. This fact is ognized and approved by all, and yet public opinion as strongly approves and de- nds stringent laws for the punishment of the desecration of graves in order to pro- e the necessary dissecting material. Hence the laws of the District are very se- e, and properly so, against the crime of grave-robbing. With such laws in ration and such necessities for the schools of medicine, the authorities of the trict are compelled either to wink at this offense or seriously to cripple, if not to troy, the efficiency and success of these schools. Furthermore, the heads of these titutions, professors and students of science, are compelled to supply their admit- necessities by confederating with and employing professional grave-robbers, and stantly to incur the risk of detection and criminal prosecution; and it being known a community that the trade of resurrecting bodies for dissection is a common one, dred and friends are frequently tortured with anxiety lest the hand of the resur- ctionist shall remove the bodies of their dead.

This bill is intended to relieve from such fears—to do away with the necessity or mptation for violating the laws, and at the same time in an open and legal way to ovide the requisite dissecting material for the study and advancement of anatomical ience in the District. A careful comparison with the statutes of some of the States ows its provisions to be prudently and aptly framed, and intended to accomplish he purpose in view in a manner as little repellent to public sentiment and sensibility s practicable.

For the above reasons your committee return said bill with the rec- ommendation that it do pass.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1123.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1885.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

## REPORT:

[To accompany bill S. 2447.]

*The Committee on Military Affairs, to which was referred the bill (S. 2447) to remove the charge of desertion existing against Daniel Morris, have duly considered the same, and submit the following report:*

This bill provides that the charge of desertion on the records of the War Department against Daniel Morris, late of Company F, Fortieth Regiment New York State Volunteers, be removed.

Your committee referred the case to the Secretary of War, and received from him the following letters and exhibits, to wit:

WAR DEPARTMENT,
*Washington City, January* 16, 1885.

SIR: Referring to your letter of the 7th instant, requesting to be furnished with all papers on file in the Department touching the application for removal of the charge of desertion from the record of Daniel Morris, late of Company F, Fortieth Regiment of New York Volunteer Infantry, I have the honor to inclose herewith a copy of a report of the Adjutant-General, dated the 13th instant, embodying the military history of Daniel Morris, together with copies of the evidence filed in support of the application for the removal of the charge of desertion in his case.

Copies of the inclosed papers were also furnished Hon. W. S. Rosecrans, chairman of the Committee on Military Affairs, House of Representatives, to-day, upon his application therefor.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
*Secretary of War.*

Hon. J. D. CAMERON,
*Acting Chairman of the Committee on Military Affairs, United States Senate.*

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WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
*Washington, January* 13, 1885.

SIR: I have the honor to return herewith letter from the Hon. J. D. Cameron, Acting Chairman Committee on Military Affairs, United States Senate, dated the 7th instant, and also letter inclosing House bill 7758, from the Hon. W. S. Rosecrans, chairman Committee on Military Affairs, House of Representatives, of the 9th instant, and in reply to transmit herewith copies of all the evidence on file in this office, submitted for the removal of the charge of desertion from the record of Daniel Morris, of Company F, Fortieth New York Volunteers.

The records of this office show that Morris was enrolled in Company F, Fortieth New York Volunteers, June 14, 1861, for three years. On the muster-roll of the company for July and August, 1862, he is reported "absent without leave"; for November and December, 1862, "dropped per General Order 92, War Department"; for July and August, 1863, "present; returned to the regiment August 13, 1863, from St. Elizabeth Hospital, Washington, D. C."; and on roll for November and December, 1863, "present."

He re-enlisted in the company as a veteran volunteer, December 21, 1863; and on the roll for January and February, 1864, he is reported "Deserted from regiment in New York City, February 7, 1864."

His name is not borne on any subsequent records of the company.

I have the honor to be, sir, very respectfully, your obedient servant,

R. C. DRUM
*Adjutant-General.*

The Hon. SECRETARY OF WAR.

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1319 VERMONT AVENUE,
*February* 24, 1884.

SIR: In reply to a letter dated February 20, and signed by you, to the effect that I should put in writing "a full explanation" in the case of my brother, Daniel Morris, late of Company F, Fortieth New York Volunteers, I beg to inform you that I have already, through the Second Auditor's Office, filed affidavits and sworn statements, covering the formula required by that office. Indeed the officials in the Auditor's Office have stated very plainly that they considered the case a just one, and would allow it were it in their power to do so. This could only be done by you. Of course, as a woman, I am not at all versed in the legal technicalities of the case, and can only state in my own language that I have left "no stone unturned" to clear up the matter of my brother's disappearance. The last I heard from him was a letter sent me to Liverpool, England, from Silver Springs, Va., two years and nine months after my brother's enlistment. My oldest brother, who belonged to the same company, served three years and veterinized at Silver Springs, Va., was killed shortly afterwards in action at Spottsylvania, and Daniel has never since been heard from. Another point is this, our relatives were residents of Liverpool, England, during the war; had my brother been a deserter he certainly would have come home to Liverpool, England. I have filed an affidavit from my sister, made before the American consul, in which she states most emphatically that she believes my brother Daniel was also killed in the Union Army. I really think, Mr. Secretary, that upon the strength of the evidence I have already produced, and which is on file in the War Department, that you ought to cancel the record, which is certainly an incorrect one.

As a lady I regard an oath as a very serious matter. I prefer to scratch with my pen all the days of life rather than perjure myself for all the relatives in Christendom. This, however, is a matter of common justice to the dead, which you, I am confident, as a gentleman of mind and position, cannot fail to discern, and it lies only in your power to rectify. Your illustrious father, with his sound common sense and keen sense of right, would not have hesitated an instant in such a matter, in the teeth of all the military discipline extant. Deeds speak more than words. These brothers were very dear to me, as I at the time of the rebellion was an orphan in another land, anxiously awaiting the close of the war in America, in hopes of getting possession jointly with my brothers of the property left by my uncles in Kentucky. Again, let me call your attention to the fact, Mr. Secretary, that there was no occasion for this young brother to enter the Army at all; he had only been a resident of the States one year when the war broke out, *ergo* was a British subject, hence he could have claimed the protection of that Government. Cowardice is not one of the traits of my family. My grandfather for many years held an honorable position and lived upon the estate of the late Lord Templeton, father of the present Marquis of Downshire, and my mother and her six brothers were reared upon that nobleman's estate. Unfortunately my mother married a poor man by whom she had twelve children; four of her brothers settled in Lexington, Ky, United States, and it was their property, which was willed to my mother and her children, that induced my brothers to come here. The well-known law firm of Hickey & Hunt, of Lexington, Ky., were attorneys in the case, and the brother of John Doyle, who built the Saint Louis court-house, was executor. I have gone into these details to show you, Mr. Secretary, that there was a greater inducement for my brother to remain in the Army than to leave it, and in conclusion would swear upon a stack of Bibles as high as my head that I am sure he never deserted. Hoping you will not doubt my veracity, and grant my request,

I have the honor to remain, very obediently, yours,

ROSE A. BRAENDLE,
(*Nee* Rose A. Morris).

Hon. ROBERT T. LINCOLN,
*Secretary of War.*

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In the matter of the application of Rose A. Braendle, as sister of Daniel Morris, deceased, late private Company F, Fortieth New York Infantry Volunteers.

John H. B. Jenkins being duly sworn, says that he resides at No. 1816 Fifteenth street northwest, in the city of Washington, D C., and is employed in the office of

the Second Auditor of the Treasury; that he was mustered into the United States service June 14, 1861, as a private of the above-named company, and was discharged on account of disability February 20, 1863, at camp near Falmouth, Va.; that he reenlisted as a "veteran recruit" February 9, 1864, was assigned to Company E, and mustered out as second lieutenant of Company B June 27, 1865.

That he became well acquainted with the said Daniel Morris, being daily associated with him in discharging the duties of a soldier, and fully remembers his identity and personal appearance, which last bore a striking resemblance to that of his sister, Mrs. Braendle. That Daniel Morris was a good and faithful soldier, who always did his duty in camp or on the field; that this deponent would, from his knowledge of his deceased comrade alone, disbelieve any charge of desertion made against him, and is fully convinced, after conversing with Mrs. Braendle and reading her sworn statement filed with the Second Auditor, that Daniel Morris is dead, and that the charge of desertion against him on the rolls is an error; that deponent has no interest whatever in any claim filed or hereafter to be filed on account of the service and death of said Daniel Morris.

JOHN H. B. JENKINS.

Sworn to and subscribed before me this 18th day of March, 1884. I have no interest in this matter.

[SEAL.] H. C. HARMON,
*Notary Public.*

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In the matter of the application of Rose A. Braendle, as sister of Daniel Morrris, late private Company F, Fortieth New York Volunteer Infantry.

John M. Keogh, being duly sworn, says that he resides at No. 332 B street northeast, in the city of Washington, and District of Columbia, and is a clerk in the War Department, Adjutant-General's Office. That he is the identical John M. Keogh who was a member of Company E, Fortieth Regiment New York Volunteer Infantry. That he was enrolled in the company at its original organization, and honorably discharged.

That he was well and intimately acquainted with the above-named Daniel Morris, and remembers distinctly that he was a good and faithful soldier who always did his duty, whether in camp or on the field; that deponent does not believe that Morris ever deserted, but believes that the charge against him on the rolls is erroneous and unfounded. In view of his knowledge of his comrade's character as a man and a soldier, and of the statements of Mrs. Braendle, deponent has no hesitation in declaring his belief that Daniel Morris is dead.

——— ———.

Sworn to and subscribed before me this —— day of March, 1884.

———, ———,
*Notary Public.*

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PHILADELPHIA, *March* 20, 1884.

MADAM: Yours of the 18th at hand, and in reply will say, that I am pleased to add any information that I have to aid in removing the charge of desertion from the record of your deceased brother; in fact, I was surprised to hear that your brother stood in the light of a deserter. I can testify to the good conduct of your brother while in the Army, and also his bravery in action, and I trust that you may be able to have the matter fixed in the War Department, as I am always in hearty accord with anything that can aid any of my old comrades in arms.

Yours, respectfully,

JOSEPH W. CLYMER,
1929 *Callowhill Street, Philadelphia,*
*Late Lieutenant Fortieth New York Volunteers.*

Mrs. ROSE A. BRAENDLE.

The foregoing give all the facts accessible to your committee.

Daniel Morris made a record as a soldier. What is that record? It is briefly: Daniel Morris enlisted June 14, 1861, to serve for three years in Company F, Fortieth New York Volunteers. In July and August, 1862, was absent without leave, and in November and December, 1862, was dropped per General Orders 92, War Department, and in July and August, 1863, was present, having returned to his regiment August 14, 1863, from Saint Elizabeth Hospital, Washington, D. C., and in November and December, 1863, was present on duty. On December 21,

1863, he re-enlisted in the company as a veteran volunteer, and on February 7, 1864, deserted from his regiment in New York City. Here his record ends.

The object of the bill is to remove the record of the charge of desertion. This leads to the inquiry: When, where, and by whom was this record made and this charge of desertion entered?

This entire record, including the charge of desertion, was made upon the muster-roll of his company at the end of each two months by his company officers, having before them the daily reports of his company for each day of the two months, and consequently at the very time the acts recorded were done and committed, and at the very places where the company was, and by the company officers, who must be presumed to be willing to do justice to their own soldiers, who, in many cases, were their personal friends and home acquaintances.

Such a record is entitled to some weight, and must stand unless clearly established by competent and proper evidence to have been improperly, inadvertently or maliciously made.

What is the evidence offered in this case to secure the removal of that grave charge? Does Daniel Morris ask to have his record changed and the charge removed? No. His sister, Mrs. Rose A. Braendle, of Washington City, on February 24, 1884, applies to the Secretary of War for the removal of this charge and presents a written statement, and supports it by the affidavits of John H. B. Jenkins and John M. Keogh, of this capital city, dated in March, 1884, and by a letter of Joseph W. Clymer, of Philadelphia. From the statement of Mrs. Braendle it appears she has presented to the Second Auditor some claim for back pay or bounty, alleged to be due to said Daniel Morris, and this record containing the charge stands as a barrier and prevents her receiving the same.

What is briefly the substance of Mrs. Braendle's statement? It is that she has left no stone unturned to clear up the matter of her brother's disappearance and says, "The last I heard from him was a letter sent me to Liverpool, England, from Silver Springs, Va., *two years and nine months* after my brother's enlistment." This is the only actual fact bearing on the absence. She then makes a very strong, plausible, and sympathetic appeal in behalf of the honor, character, &c., of her brother and offers reasons why he would not have deserted, &c.

Mrs. Braendle is, no doubt, sincere in these statements, but they are simply her opinion. If her statement as to dates is correct, she received a letter two years and nine months after her brother's enlistment, from Silver Springs, Va. There is no dispute that he and his company were in New York City when he deserted, February 7, 1864. There can be no reasonable pretense that he was killed in battle. The affiants, Jenkins and Keogh, say that it is their opinion, from their personal knowledge of Morris, that he would not have deserted, &c. They know nothing of the facts personally. Mr. Clymer in his letter expresses surprise that Morris was charged with desertion, &c., but gives no personal information of Morris at or after the desertion.

There is absolutely no evidence upon which to remove such charge of desertion. The record of Mr. Morris shows absence without leave in July and August, 1862, and he was dropped from the rolls in November and December, 1862, but afterwards returned to his command from hospital, in August, 1863, and then deserted February 7, 1864.

Your committee recommend that the bill be indefinitely postponed. There is nothing in the case to show any reasonable ground for favorable action.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1124.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1885.—Ordered to be printed.

Mr. CAMERON, of Pennsylvania, from the Committee on Military Affairs, submitted the following

# REPORT:

[To accompany bill S. 2365.]

*The Committee on Military Affairs, to whom was referred the bill (S. 2365) for the relief of First Lieut. Augustus R. Egbert, Second Regiment United States Infantry, having had the same under consideration, beg leave to submit the following report:*

The bill as introduced provides—

That the value of the private property belonging to First Lieutenant Augustus R. Egbert, Second Regiment United States Infantry, lost or destroyed during transportation between Atlanta, Georgia, and Spokane Falls, Washington Territory, in the year eighteen hundred and seventy-seven, between the first of July and the thirty-first of December, while said property was in the possession and custody of and being transported by the Quartermaster's Department of the Army of the United States, having been ascertained and determined according to the provisions of the rules and regulations for the government of the armies of the United States, the sum of one hundred and ten dollars and twenty-five cents is appropriated to reimburse the said First Lieutenant Augustus R. Egbert, Second Regiment United States Infantry, for the said loss.

The committee having reported a general bill on this subject, covering this and all similar cases, ask to be discharged from its further consideration, and recommend its indefinite postponement.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1125.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 2158.]

*The Committee on Pensions, to whom was referred the bill (S. 2158) granting an increase of pension to Jesse S. Harrold, have examined the same, and report as follows:*

That said Jesse S. Harrold, late second lieutenant, Company H, Fourteenth Regiment Indiana Volunteers, was honorably discharged September 19, 1863, on account of wounds received in battle. It appears that at the battle of Antietam, Md., he was wounded in the shoulder, head, thigh, and arm. In May, 1863, at the battle of Chancellorsville, he was shot through the abdomen and received a wound in the neck. For the wounds of the left arm and abdomen, left shoulder and neck, he was pensioned in 1865 at $11.50 per month from date of discharge. This rating was afterwards increased to $15 per month from March 25, 1867; then to $18 per month from June 16, 1879; and lastly to $24 per month from March 3, 1883; which is the rate he is now receiving. The wound in the abdomen was a fearful one, and it is remarkable that the soldier survived it. From the reports of the board of examining surgeons made in June, 1879, it appears that his combined disabilities was rated at $37.50. He was last examined by a board of surgeons in April, 1882, which, after describing his several wounds, rated him as entitled to two-thirds, third grade for wound of left arm; for wound of abdomen, two-thirds, third grade, and for wound of shoulder at one-half total. This board further reported that as the result of the wound in abdomen there was a growing inability to retain urine for any length of time. The bill proposes to increase the pension of this soldier to $33 per month.

Your committee think that in view of his many wounds, their serious character, and the claimant's increasing disability, that his application is a meritorious one, and they accordingly report back the bill to the Senate, with the recommendation that it be passed.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1126.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 2377.]

*The Committee on Pensions, to whom was referred the bill (H. R. 2377) granting a pension to James Stockton, have examined the same, and report:*

Capt. James Stockton was enlisted as captain of Company D, Thirty-first Regiment Enrolled Missouri Militia, in September, 1861, and was mustered out of the service August 27, 1864. He filed an application November 6, 1882, alleging great injury to neck, right arm, and hand about the thumb, and finally the amputation of the arm.

The Commissioner of Pensions rejected the application, for the reason "that the claimant was not in the military service of the United States, the Thirty-first Regiment Enrolled Missouri Militia being a State organization, and not pensionable under existing laws."

It appears that Col. Manton Cranor, in command of said regiment, detailed Captain Stockton to look after the guerrillas in and around Platte City, Mo.; that while performing this duty with his company, Captain Stockton was injured in the following manner: He was pursuing a guerrilla, who turned in his flight and fired upon Captain Stockton, killing the latter's horse, which, in falling, threw him to the ground with such force as to seriously injure his right arm below the elbow-joint, from which he continued to suffer until the 17th of April, 1882, when his arm was amputated. It is clearly shown that Captain Stockton was acting under State authority and for State purposes at the time of receiving his injury. He was not acting under orders of United States officers or in direct co-operation with the Federal forces. There is no pension law applicable to the case, and the Commissioner of Pensions was clearly correct in rejecting the claim.

No special considerations are presented why this case should be made an exception to the general law, and the committee accordingly recommend that the bill be indefinitely postponed by the Senate.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1127.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 2068.]

*The Committee on Pensions, to whom was referred the bill (S. 2068) granting an increase of pension to William Baldwin, have examined the same, and report:*

William Baldwin enlisted as a private in Company C, First Colorado Cavalry, on the 30th of October, 1861, and was discharged from the service December 3, 1864. He filed his application for pension March 20, 1875, alleging a gunshot wound in the right thigh, received at Apache Cañon, New Mexico Territory, on the 28th of March, 1862. After an investigation of the case he was pensioned at the rate of $3 per month, dating from his discharge, December 3, 1864, and was subsequently increased to $6 per month from August 22, 1883. This increase was based upon the report of a board of examining surgeons. Whether there has been any substantial increase of his disability since August, 1883, when last examined, does not appear. The case stands before the committee just as it stood when the claimant's pension was increased—nothing additional is presented. There is no evidence in which to justify any increase of pension, much less that proposed by the bill, which is to give him the same rating now or hereafter allowed "to one who has lost an arm at or above the elbow or one leg at or above the knee."

Your committee accordingly recommend that the bill be indefinitely postponed by the Senate.

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ᵇTH CONGRESS, 2d Session. | SENATE. | REPORT No. 1128.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1885.—Ordered to be printed.

ɪr. BLAIR, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany petition of Hugh Bodwell.]

The Committee on Pensions, to whom was referred petition of Hugh odwell, late private of Company B, One hundred and ninety-eighth egiment Pennsylvania Volunteers, have examined the same, and reort, recommending that the committee be discharged from the further onsideration of the same.

The petitioner was pensioned for gunshot wound, but dropped from the oll in the year 1870, the medical examinations failing to show continiance of the disability. Several examinations have shown the same esult. The soldier is now in Soldier's Home, and it seems probable hat a disability exists, but it is not shown to the committee, and it is ı medical question which the Pension Office should determine.

The committee recommend a careful medical examination and action ı accordance with the result.

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48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1128.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1885.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany petition of Hugh Bodwell.]

The Committee on Pensions, to whom was referred petition of Hugh Bodwell, late private of Company B, One hundred and ninety-eighth Regiment Pennsylvania Volunteers, have examined the same, and report, recommending that the committee be discharged from the further consideration of the same.

The petitioner was pensioned for gunshot wound, but dropped from the roll in the year 1870, the medical examinations failing to show continuance of the disability. Several examinations have shown the same result. The soldier is now in Soldier's Home, and it seems probable that a disability exists, but it is not shown to the committee, and it is a medical question which the Pension Office should determine.

The committee recommend a careful medical examination and action in accordance with the result.

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CONGRESS, Session. | SENATE. | REPORT No. 1129.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1885.—Ordered to be printed.

ıCKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 2010.]

*ommittee on Pensions, to whom was referred the bill (S. 2010) grant-a pension to John S. Williams, have examined the same, and report ollows:*

t the said John S. Williams, late private in Company K, Twelfth Volunteers, enlisted July 1, 1861, and was discharged June 20, On the 20th June, 1879, he filed his application for pension, al- as the basis of his claim that while engaged in ferrying troops Elk River, West Virginia, in November, 1862, he received a fall, ıting his left shoulder. After investigation the claim was re- in 1882, for the reasons that there was no record of the alleged of left shoulder, and because the claimant was unable to furnish stimony of his surgeon or of any officer of his command, or other ıctory evidence, of the incurrence of the disability in the service the line of duty. The company rolls show the claimant present ty with his command during the month of November, and up to December, 1862, when he received twenty days' furlough. At ex- on of this furlough he returned to duty with his command. His erm of service expired January 1, 1864, when he re-enlisted and ued in the service till mustered out in July, 1865. The claimant, affidavit filed March 6, 1882, admits that he was not treated by ıysician while on furlough in December, 1862, "nor has he been d since, because he uses liniments to ease the pain, without the se of a physician."

ain neighbors speak of his complaining of his shoulder in 1869, vo comrades think they remember that he got a fall of some sort the first or second year of the war, but there is nothing in the of evidence to support the claim. It is not shown that he re- any injury, as alleged, in the service. The failure to go to hospital ch injury, his continuance in the service and upon active duty, enlistment in 1864, the absence of treatment by a physician while lough in December, 1862, or after discharge, and the long lapse e before making any application for pension are all inconsistent he idea that he could have received dislocation of the shoulder in ıber, 1862.

r committee think the claim was properly rejected, and they rec- ıd the indefinite postponement of the bill by the Senate.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1130.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 2138.]

*The Committee on Pensions, to whom was referred the bill (S. 2138) granting a pension to Nancy S. Daniels, have examined the same and report:*

An application for pension was filed by Nancy S. Daniels on the 13th of June, 1878, and after a careful investigation by the Pension Office, was rejected because "the soldier was not in the military service of the United States, as shown by the records of the War Department."

The record is clear that the husband of the applicant, Nathan B. Daniels, was enrolled and served in the year 1862, in Company H, Sixty-third Regiment Enrolled Missouri Militia. No proof is shown of the injury from which it is alleged he died in October, 1874.

There is no provision of law allowing pension on account of death of persons who were members of the State militia not completed to a successful termination prior to July 4, 1874. (See Digest, section 45, page 229.)

Aside from the fact that the soldier was not in the military service of the United States so as to entitle him or his widow to pension, it is not shown that he died of any disease contracted in the militia service of the State of Missouri.

The committee recommend the indefinite postponement of the bill by the Senate.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1131.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1885.—Ordered to be printed.

Mr. HARRISON, from the Committee on Military Affairs, submitted the following.

# REPORT:

[To accompany bill S. 2305.]

*The Committee on Military Affairs, to whom was referred the bill (S. 2305) for the relief of Frederick Schwatka, respectfully report:*

That the following letter from the Secretary of War, with the accompanying reports from the Quartermaster-General and Chief of Ordnance, exhibits the state of Lieutenant Schwatka's accounts:

WAR DEPARTMENT,
*Washington City, January* 12, 1885.

SIR: I have the honor to acknowledge the receipt of your letter of the 29th of December, ultimo, inclosing S. 2305, a bill "For the relief of Frederick Schwatka," and requesting to be furnished such information touching the subject-matter of the bill as the records of the Department may contain.

In reply I beg to state that the matter was referred to the Quartermaster-General of the Army, and to inclose herewith a copy of his report, dated the 2d instant, from which it will be seen that Lieutenant Schwatka's attention has repeatedly been called to the deficiencies in his accounts, but that he has never made any explanation.

The subject having been referred to the Chief of Ordnance, the latter, in submitting to the Department a report showing the condition of the suspended returns of ordnance and ordnance stores, made by Lieutenant Schwatka, which report is also herewith, states, under date of the 7th instant, that as the case now stands, Lieutenant Schwatka is held for deficiencies amounting in value to the sum of $391.62; that he has filed no evidence in his office showing the loss of his retained papers, and no sufficient reason is known why he should be relieved from responsibility in the absence of such evidence, and the further declaration on his part that his inability to account for the property is due to said loss.

The copy of the bill S. 2305 is herewith returned.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
*Secretary of War.*

Hon. BENJAMIN HARRISON,
*Of the Committee on Military Affairs, United States Senate.*

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[First indorsement.]

QUARTERMASTER-GENERAL'S OFFICE,
*January* 2, 1885.

Respectfully returned to the honorable Secretary of War.

Since the date of the within bill, June 12, 1884, Lieutenant Schwatka has deposited $133.30 on account of deficiencies of clothing and equipage in the fourth quarter 1876; second quarter 1877, and first quarter 1878. His attention had been called to the deficiencies by letters of August 6, 1877, November 30, 1877, and November 1, 1878. The letters were never replied to, and no evidence that retained papers had been lost has been filed here.

These accounts have been closed by the payment above-mentioned. His return of clothing and equipment for first quarter 1877 has not been settled, he not having as yet replied to letter of November 30, 1877, in which he was called upon for evidence that certain camp equipage condemned and ordered to be sold was sold. His attention has been several times called to the requirement. There are suspensions on his money accounts of January, March, and June, 1874, and February, March, April, and May, 1877, amounting to $82.65.

He has never made any explanation.

S. B. HOLABIRD,
*Quartermaster-General U. S. Army.*

---

SUSPENDED RETURNS OF ORDNANCE AND ORDNANCE STORES, MADE BY LIEUT. F. SCHWATKA, THIRD CAVALRY.

*Return of Company M, Third Cavalry, for third quarter* 1877.

Charged on muster-rolls on file in the Adjutant-General's Office against the following-named:

| | | | |
|---|---|---|---|
| Private John Miller | $0 84 | for stores valued at | $0 69 |
| Private A. Beretle | 4 40 | for stores valued at | 4 50 |
| Private William F. Scattergood | 00 | for stores valued at | 4 00 |
| Private Thomas Brown | 00 | for stores valued at | 60 |
| Private Charles C. Humble | 00 | for stores valued at | 19 65 |
| Total | 5 24 | | 29 64 |
| | | Less the total | 5 24 |
| | | Difference | 24 40 |

*Return of Company M, Third Cavalry, first quarter,* 1878.

| | Reported as remaining on hand. | Taken up in second quarter by successor per inventory. | Deficiency. | Value. |
|---|---|---|---|---|
| Amount brought down | | | | $24 40 |
| Colts revolvers, caliber .45 | 70 | 69 | 1 | 12 00 |
| Canteens | 62 | 56 | 6 | 4 05 |
| Carbine-sling swivels | 9 | 5 | 4 | 2 00 |
| Pistol holsters | 70 | 68 | 2 | 1 [illegible] |
| Saber-belt plates | 8 | 4 | 4 | 1 20 |
| Curb bridles | 74 | 57 | 17 | 109 45 |
| Curry-combs | 75 | 62 | 13 | 6 50 |
| Girths | 64 | 60 | 4 | 4 00 |
| Horse brushes | 61 | 45 | 16 | 16 00 |
| Halter-straps | 146 | 106 | 40 | 20 00 |
| Links | 86 | 81 | 4 | 1 20 |
| Lariats | 70 | 69 | 1 | 35 |
| Picket-pins | 77 | 75 | 2 | 30 |
| Nose bags | 86 | 41 | 45 | 54 00 |
| Saddles, L. C. (not complete) | 84 | 82 | 2 | 18 00 |
| Stirrups and straps | 141 | 140 | 1 | 1 40 |
| Saddle-bags, canvas | 17 | 15 | 2 | 8 50 |
| Surcingles | 137 | 127 | 10 | 9 10 |
| Saddle blankets | 79 | 72 | 7 | 23 80 |
| Spurs | 153 | 148 | 5 | 1 00 |
| Side lines | 65 | 56 | 9 | 15 30 |
| Coat-straps | 360 | 348 | 12 | 2 04 |
| Spur-straps | 166 | 158 | 8 | 80 |
| Saddle cloths | 3 | 0 | 3 | 11 25 |
| Meat-cans | 74 | 69 | 5 | 1 95 |
| Screw-drivers (rifle) | 99 | 97 | 2 | 34 |
| Revolver ball-cartridges, caliber .45 | 7,500 | 7,000 | 500 | 10 00 |
| Rifle ball-cartridges, caliber .45 | 15,260 | 14,460 | 800 | 24 00 |
| Breech-block cap screws | 20 | 0 | 20 | 40 |
| Cam-latch springs | 20 | 0 | 20 | 60 |
| Ejector springs | 15 | 0 | 15 | 60 |
| Tumbler screws | 20 | 0 | 20 | 60 |
| Firing-pin screws | 18 | 0 | 18 | 54 |
| Total deficiency | | | | 301 62 |

Prepared in Ordnance Office January 6, 1885.

The bill proposes to relieve him "of all differences arising from clerical or similar errors."

Your committee do not understand how legislation can be necessary to relieve him from clerical errors, nor do they understand what the term "similar errors" means. It is clearly within the power of the accounting officers to correct clerical errors. If it was intended by the bill to relieve Lieutenant Schwatka from furnishing the legal evidence of the loss, expenditure, or delivery to a proper officer of the Government of property with which he was charged, we think it is still within the power of the proper department to accept such secondary evidence as he can furnish. It seems from the reports that Lieutenant Schwatka has been very derelict in responding to the requests of the Quartermaster-General and Chief of Ordnance.

Your committee do not think that any legislation in his behalf is necessary until he shall first have taken proper measures to procure a settlement of his accounts under existing laws, and therefore recommend that the bill be indefinitely postponed.

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CH CONGRESS, 2d Session. | SENATE. | REPORT No. 1132.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1885.—Ordered to be printed.

. CULLOM, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bills S. 1899 and S. 2056.]

*e Committee on Pensions, to whom was referred the bills (S. 1899 and S. 2056) granting an increase of pension to James M. Blades, have examined the same, and report as follows:*

The soldier served as first lieutenant of Company H, Sixth Regiment inois Cavalry, from October 19, 1861, until discharged, on a certificate disability on account of chronic diarrhea and hemorrhoidal tumors, ıtracted from hard marching and exposure in the line of duty, mak- it impossible for him to mount a horse. He was originally pen- ned at $8.50 per month for piles, which rate was increased to $12.75 month from January 22, 1879.

Dr. Augustus De Foe, the examining surgeon of the Pension Office McLeansborough, Ill., rated the disability at one-half on October 10, 3, stating that there were then three tumors, and that the amount lood Blades lost daily conduced to a poor state of health. April 15, 4, Dr. De Foe again rated him at one-half. September 14, 1875, Dr. Foe still thinks the same rating "about fair," and makes the same ort September 17, 1877. But on January 22, 1879, he said, "the ve rating is far too low for his present condition," and rated Blades otally disabled and entitled to $17 per month. The Pension Office, ever, only increased the pension to $12.75.

he last examination on file was made by Dr. De Foe and two other geons August 3, 1882. They reported that Blades had internal hemor- ids, and that—

is heart is irritable as a consequence, we think, of impoverished health caused by condition of the bowels and rectum. His whole disability arises from the effects iarrhea and piles.

hey found him one-half disabled by chronic diarrhea and one-half piles, and again recommended an allowance of $17 per month.

Blades applied for an increase on account of heart disease, resulting n his previous disability, but was not allowed the amount recom- nded twice by the surgeons. No reasons for this action by the Pen- n Office are given in the papers.

Your committee do not think, however, that such a state of facts has en shown as would warrant an interference with the ratings of the partment, and therefore report back the bills with a recommendation at they be indefinitely postponed, and that the papers in the case be urned to the Commissioner.

DOES NOT APPLY

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1133.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 1365.]

*The Committee on Pensions, to whom was referred the bill (S. 1365) granting an increase of pension to Eugene O'Sullivan, have examined the same, and report as follows:*

This bill proposes an increase of pension from $8 to $18 per month. Following is the statement of the case made by this committee in the report upon a similar bill submitted during the third session of the Forty-fifth Congress:

That upon an examination of the evidence submitted in this case they find that the report of the House committee fully sets forth the merits of the soldier's claim, and they therefore recommend its adoption and the passage of the accompanying bill. The report is as follows:

"Eugene O'Sullivan enlisted in Company K, Eighteenth Missouri Volunteer Infantry, January 6, 1862; was discharged February 27, 1865. On the 4th of October, 1863, his regiment then acting as mounted infantry, while on march from Chewalla, Tenn., to Corinth, Miss., with his command, the soldier was thrown from his horse and received a severe fracture of his right thigh. This permanently disabled him, and prevented him from performing further duty in the service. At the time of his discharge his right leg was useless, being about 3 inches shorter than the other, which compelled him to go on crutches. Subsequently to his discharge, and while in his crippled condition, he secured a position in the quartermaster's department, at Louisville, Ky., and on the 29th of May, 1865, the very day he commenced his duty, while engaged in distributing rations, being in a loaded wagon, the team took fright, in the temporary absence of the driver, and ran away. The wagon was upset, and the lame leg of soldier was badly broken and crushed below the knee by a barrel of pork falling upon it. Amputation became necessary in consequence, to save his life. But his leg had to be taken off at the middle third above the knee, at the place he had received his original injury while in the service. He is now receiving a pension of $8 per month for the original disability. Under all the circumstances, your committee feel that this is a case worthy of special legislation, and would report favorably, and recommend the passage of the accompanying bill, granting him a pension at the rate of $18 per month."

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ITH CONGRESS, 2d Session. | SENATE. | REPORT No. 1134.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 2514.]

*he Committee on Pensions, to whom was referred the bill (S. 2514) granting a pension to David T. Hoover, have examined the same and report as follows:*

It appears from the Pension Office papers that David T. Hoover entered as a private in Company C, Fifty-sixth Regiment Pennsylvania olunteers, October 24, 1861, and re-enlisted as a veteran February 12, 64, serving until mustered out with his company July 1, 1865. He aped for a pension, alleging that while engaged in building a bridge at e battle of Five Forks and lifting heavy timbers he sprained his back, using injuries to his spine which, soon after his discharge, produced episy. His claim was rejected because no record evidence of his injury s found and he was unable to furnish medical evidence of treatment in e service. A number of affidavits were filed by the claimant, in which stated that he had served in the pioneer corps of his regiment, but s transferred to the brigade corps a few days before being injured; t there was no other member of his company or regiment in the ps; that he was a stranger to the men and had since been unable to rn their names, and that he was treated in an ambulance by a Dr. ons, whom neither he nor the Pension Office seem to have been able find.

After leaving the Army Hoover located at Centralia, Ill., and has er since resided there. There is an abundance of testimony on file m the best citizens there, showing that he began to have epileptic soon after his discharge, and has since been permanently and totally abled, as claimed. His neighbors also certify that he is an industrous, temperate, and honest citizen, whose habits and character are the best, and that he is worthy of full credit. His pitiable condition shown by the report of the surgeon who examined him in 1880, as lows:

> e is at this time totally disqualified for any business; half his time requires the stant care of his wife or friends. He has had as many as fifteen fits in three days.

Having been injured among strangers and treated in an ambulance the march, instead of in hospital, it is naturally difficult for the solr to secure the evidence required by the Pension Office. The evidence file tends to corroborate the justice of his claim and the truth of his tements as to the origin of his disability in the service.

Believing that it would be unjust to a deserving soldier, who served arly four years and has been almost wholly disabled ever since, to force the requirements of the Pension Office under the circumstances, ur committee recommend the passage of the bill.

WAS NOT CIRCULATE

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1885.—Ordered to be printed.

MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 5565.]

*Committee on Pensions, to whom was referred the bill (H. R. 5565) anting a pension to Theo. Ahrens, have examined the same and report:*

he facts in this case are fully set forth in the report of the Com-
ee on Invalid Pensions of the House of Representatives, made
ng the last session of the present Congress, as follows:

ur committee, having in charge the bill H. R. 5565, submit that all the testimony
is case has been carefully examined.
eo. Ahrens enlisted as a private in Company O, One hundred and ninety-eighth
ment Pennsylvania Volunteer Infantry, August 27, 1864, and was discharged
23, 1865. The claim for pension is for chronic diarrhea and inflammation of the
resulting in blindness, contracted at City Point, Va., in April, 1865.
e claim was rejected by the Pension Department on the ground that he was not
led while in the service by diarrhea, and that the disease of eyes, which is
n, existed previous to enlistment.
liam Thompson, M. D., surgeon in charge of the One hundred and ninety-eighth
nent Pennsylvania Volunteer Infantry, on the 11th day of December, 1876, made
vit as follows:
heo. Ahrens, of Company O, One hundred and ninety-eighth Regiment Pennsyl-
Volunteer Infantry, was sick with diarrhea and inflammation of his eyes during
pring campaign of 1865, and was sent to hospital for treatment. I have no
d to which I can refer for precise dates, but I am quite sure that said Ahrens
ent to hospital in April, 1865."
P. Greenleaf, M. D., of Henry Clay Post-Office, Del., December 4, 1879, tes-
:
heodore Ahrens, late of Company O, One hundred and ninety-eighth Regiment
sylvania Volunteer Infantry, called on me to prescribe for his eyes, in December,
and, if my memory serves me right, once or twice afterward. He was suffering
e time with a very severe inflammation of the eyes, which he said he contracted
e Army. I have no interest whatever in his claim for pension."
arles Reddehase, a citizen of Baltimore, Md., swears as follows, July 11, 1881:
am personally acquainted with Theodore Ahrens; have known him for twenty-
ears; he was a neighbor of mine previous to his enlistment in the Army. He
sound and healthy man when he enlisted; his eyesight was good, and I never
him to be subject to weak eyes, or ever heard him complain about his eyesight
ous to enlistment."
ry Layes and Christian Heilands, in a joint affidavit made October 26, 1874, tes-
s follows:
home is in the city of Baltimore, Md. Theodore Ahrens, before he enlisted in
nited States Volunteer Army, was employed in William Wilkins & Co.'s tailor
lishment in Baltimore, with us, from 1858 to 1864, and he was a sound and
hy man, and industrious. We positively know that he was free from disease of
es during the time we were with him. We have no interest whatever in the
cution of his claim for pension."
liam Wilkins, of the firm of William Wilkins & Co., on the 28th day of Feb-
, 1874, testifies:
am one of the firm of William Wilkins & Co. Theodore Ahrens has been in my
oy from the year 1858 to 1864, and so far as I know he was always in good health
ttended to all the duties assigned him in behalf of my establishment. I have
terest in his claim for pension."

Francis G. Dupont and John Gibbons, of Wilmington, Del., on the 28th day of December, 1874, make joint affidavit as follows:

"We knew Theodore Ahrens from 1865 to 1873, and during that period he suffered with disease of the eyes, and frequently went to Philadelphia for treatment of the same. We further declare that we have no interest, direct or indirect, in his claim for pension."

C. W. Kirchner, M. D., of Wilmington, Del., April 26, 1879, made affidavit as follows:

"I never knew Theo. Ahrens before he enlisted or since his discharge until the year 1868. Then he came to my office three or four times to prescribe for a chronic inflammation of the eyes. I do not remember exactly the condition of his eyes, but I considered the disease incurable; I gave him a certificate to that effect, but kept no journal of his case."

Jacob Hawser, January 6, 1875, a citizen of Wilmington, Del., testified:

"I have known Theodore Ahrens since he came to Wilmington, Del., after his discharge from the United States Army in June, 1865, and he suffered from sore eyes all the time of his staying here, and was under medical treatment. This disease at last compelled him to go to the National Home for disabled volunteer soldiers in Montgomery County, Ohio, in 1873."

May McPherson, of Wilmington, Del., on July 10, 1879, made affidavit as follows:

"I have been keeping a boarding-house at Dupont's Banks, near Wilmington, Del., since 1852. Theodore Ahrens came to my house to board in August, 1865, and lived at my house continuously until June, 1873. At the time he came to my house he was greatly afflicted with inflamed eyes, and his sight was so much impaired that he could not read by candle or gas light. He was a sober and industrious man, and I never saw or heard anything against his good character during the whole time he lived with me."

Charles Reinecke, of Philadelphia, Pa., on the 27th day of April, 1877, made the following affidavit:

"I was acquainted with Theodore Ahrens while in camp between Petersburg and City Point, Va., in the month of April, 1865, and while he was on guard duty near South Railroad in the month of April, 1865. I remember that he was attacked with severe inflammation of his eyes, caused solely by exposure and cold, so that he was unable to perform his duties, and Dr. William Thompson sent him for treatment to City Point hospital."

Charles W. Gee and John W. Kinly, of Philadelphia, Pa., January 31, 1876, make joint affidavit as follows:

"We have been well acquainted with Theodore Ahrens; he was a member of our company, O, One hundred and ninety-eighth Pennsylvania Volunteer Infantry, and we positively know that said Ahrens was attacked with severe inflammation of his eyes while on duty between Petersburg and City Point, Va., in the spring of 1865, and he was sent from there to the hospital."

John W. Bark and William Maher, both members of Company O, One hundred and ninety-eighth Regiment Pennsylvania Volunteers, made affidavit September 4, 1877, in effect the same as that made by Gee and Kinly.

Another comrade, by the name of Daniel Miller, testifies the same as the other members of his company.

August 5, 1875, J. W. Weaver, examining surgeon at Dayton, Ohio, certifies to total blindness.

There is some testimony obtained at a special examination to the effect that claimant had disease of eyes previous to enlistment, but this testimony is not of the same character as the testimony given by comrades, neighbors, and physicians, and in the opinion of your committee is not as worthy of credence.

The claimant has been totally blind for nearly ten years. In view of the fact that he performed all the duties devolving upon a soldier for nearly a year, and was then discharged for the very disability for which he now asks a pension, your committee recommend the passage of the bill.

Your committee do not think it necessary to add anything to this extended brief of the testimony except to remark that the alleged "sore eyes" from which it is said claimant suffered before enlistment, and for which cause his application was rejected, seem to be more a matter of inference than of any certain testimony, while the evidence as to his prior soundness is positive and direct both by his employer and fellow-workmen. Believing that whatever doubt may remain on this point should be determined in favor of this claimant, who is now blind and helpless, we report back this bill and recommend its passage.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1136.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1885.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 5543.]

*The Committee on Pensions, to whom was referred the bill (H. R. 5543) granting a pension to David M. Nagle, have examined the same, and report:*

The facts in this case are set forth in the following report of the Committee on Invalid Pensions of the House of Representatives, made during the last session. (H. R. Report No. 1176.)

Edmund B. Nagle, son of the petitioner, was mustered into the service of the United States as a private in Company B, Third Regiment of New Jersey Cavalry, on the 29th day of January, 1864, at Trenton, N. J.

The muster-rolls of said company and regiment for September and October, 1864, report: "Died in McClellan General Hospital, Philadelphia, from wounds received in action." Company muster-roll report: "Private died October 6, 1864, from wounds received in action." Quarterly return of deceased soldiers reports the same at Philadelphia. Regimental returns report the same, of wounds received at Winchester. Regiment was in action at Winchester, Va., September 19, 1864. The record of soldier's death is complete. There is no doubt of his dying from wounds received in the service.

The mother made application for pension January 2, 1874, and another January 28, 1880. She died April 20, 1881. The father, the petitioner, applied June 2, 1882. Both applications were rejected on the ground that claimants were not dependent on or supported by the soldier at the date of his death, the testimony showing that the father's salary of $4 a day was sufficient to afford a maintenance at that time.

No better history or understanding of the case can be had or given than by transcribing the evidence as presented in the brief of the Pension Office in this claim. The testimony is voluminous, and your committee, therefore, for the sake of brevity, have divested it of much of its verbiage, without, they trust, changing the statement of facts presented, desiring only to arrive at a just and fair conclusion thereon.

The petitioner, David M. Nagle, in an affidavit filed November 16, 1881, says, substantially, that he is the father of the soldier, Edmund B. Nagle, who was mortally wounded at the battle of Fisher's Hill, near Winchester, Va., September 25, 1864, and died at McClellan Hospital, Philadelphia, October 6, 1864, aged twenty-two years; and that said soldier was never married; that said soldier frequently sent money home to pay rent and help support the claimant and his wife, the soldier's mother, they being dependent upon him for support, and having no personal or real estate; the claimant having no permanent occupation, but living for many years on the generosity of others; that the mother died on the 20th of April, 1881, and her medical and funeral expenses are yet unpaid. Claimant is now in the eighty-first year of his age, and entirely destitute. Had four sons in the Army. It will be remembered that this report was made three years ago. The petitioner is, therefore, at the writing of this report, eighty-four years of age.

In a subsequent affidavit, dated June 2, 1882, the claimant says that the soldier was employed, earning $7 per week prior to enlistment, and that while in the service he contributed all his pay as he received it to the support of his parents; that during

this period claimant suffered the natural incapacity and debility arising from old age, and that after the death of the soldier claimant contracted a severe cold, which seriously affected his constitution; and that in 1868 he was afflicted with double rupture, from which he has suffered ever since, and was treated by several physicians, whose names are given. Affiant repeats statement as to condition of health; that he has no property, and states that he was employed in New York custom-house for a short time at $4 per day; that he was also employed in the mayor's office from June, 1869, to December, 1871. He further states that he had no other means of support since the soldier's death, except the voluntary contributions of friends, and reasserts his former statements in regard to the contributions of the soldier.

Jeremiah Murphy corroborates claimant's statement as to the family, the soldier's death, and his celibacy, and says that he has known claimant since 1864, and testifies that he has no means of support beyond the contributions and donations of his friends and acquaintances, except a few months' work in the New York custom-house, which ended in the latter part of 1864 or early in 1865; that he was employed in the mayor's office for a few months in 1869, and that for about a year off and on, during 1867 and 1868, he was employed as an inspector of paving; that other than this he has been wholly dependent upon his friends; that since 1869 he has been continuously in delicate health; that before the son enlisted he gave all his earnings to his parents, and sent all his Army pay to his parents, except for some time before his death, and in fact while he was in the cavalry, as it was in arrears; that the claimant was in fair physical condition from 1864 to 1869, except the usual weakness of advancing age, after which time he was broken down; that in 1868 the claimant was afflicted with rupture, from which he has since suffered. Affiant says that all of the sons except one were in the Army, and that the mother died in 1881.

N. Woodhull Woolsey, M. D., corroborates forgoing statements as to family and occupation of claimant, and as to his physical weakness; also as to the soldier's earnings, and aid in supporting parents.

William Dwyer, M. D., says claimant has suffered from hernia, rheumatism, and from general debility, and is unable to earn a living.

The following paragraph appeared in a New York daily newspaper under date of February 22, 1884:

"THE FATHER OF FIVE SONS WHO WERE KILLED IN THE WAR DYING OF STARVATION IN BROOKLYN.

"On the first floor of a miserable tenement house at No. 378 Baltic street, Brooklyn, lives Daniel M. Nagle, an old veteran, whose name will figure among the sons who fought the fruitless fight for Ireland's liberty. Five of Mr. Nagle's sons lie in soldiers' graves, having sacrificed their lives in the late war. The three small rooms in which the old man lives are nearly destitute of furniture, and the visitor is struck by the appearance of most abject poverty. The old man is without any means, and unless he receives immediate assistance he will become a pauper or die of starvation.

"Mr. Nagle is eighty-four years old, and has been a citizen of the United States for sixty years."

As before stated, Mr. Nagle made application for a pension, which was rejected for reasons satisfactory to the Commissioner, the claim not coming within the requirements of the law. The paper before quoted also contained the following:

Mr. Nagle has not yet received his pension, and a number of his friends will bring the matter before Congress. The old man has not been able to earn any money in the past sixteen years. He has been obliged to pawn everything he possesses, including his clothing and a gold watch which was formerly the property of his son, General Nagle. For the past year or two he has been living on the generosity of his friends, among whom are General Slocum, who promises to advocate his claim before Congress. Mr. F. D. Thurber has written a letter to Congressman Darwin R. James, asking him to interest himself in the case.

The following is a letter from General Meagher, written directly after the close of the civil war:

NEW YORK, *May* 26, 1865.

I feel very great pleasure in testifying to the earnest patriotism and public spirit of Mr. D. M. Nagle, in whose favor I write these few lines, and cordially commend him to the fondest consideration of the Government.

Too far advanced in years to take the field in person in support of the National authorities and the maintenance of the Union, Mr. Nagle proved his devotion to the country of his adoption by cheerfully bidding his five sons to go and do what his impaired strength prevented himself doing, ardently as he desired to have his share as a man in striking down the rebellion.

One of those sons served in the second regiment of the brigade I had the honor to command in the Army of the Potomac, and of him it gratifies me heartily to speak in

the highest terms of approval and admiration. A thoroughly reliable soldier, a conscientious and high-toned gentleman, ever eager in the discharge of his duties, animated always with a chivalrous sense of the dutifulness and sacrifice he owed the service, and the great cause in which he was engaged, it is with sincere satisfaction I have this opportunity afforded me of speaking of his merits in connection with the just claims of his father upon the consideration of the Government. Should these claims, founded upon zealous and intelligent services in civil and political life to the cause and the Government of the United States throughout the terrible conflict that has now ceased, and which were all the more valuable from the circumstance that he was a citizen of Irish birth—should these claims of Mr. Nagle be recognized and rewarded as they deserve to be, not one of his many friends will more sincerely rejoice than

THOMAS FRANCIS MEAGHER,
*Brigadier-General, U. S. Volunteers.*

Your committee believe this old man justly entitled to the pension asked. Every sense of patriotism, of sympathy, and of justice is excited in his favor. He bid his sons go forth and battle in the service and in defense of his adopted country, and in so doing he sacrificed the very prop and stay of his declining yeras. Surely there should be some recompense. He does not ask much, and it can be but a few years at most that he can be a charge upon the Treasury. Your committee, with forcible earnestness, recommend and ask that the bill for his relief be passed.

It appears from the evidence that the claimant had no permanent occupation while his son was in the service, but received an appointment as storekeeper in the New York custom-house September 1, 1864. He held this place until the change of administration, about seven months, at $4 per day, when he was discharged, April 10, 1865. As the soldier's death occurred October 6, 1864, the father had actually held this position a month and six days at that time. Therefore the Pension Office rejected the claim on the ground that at the day of the death of the son the father was not dependent upon him for adequate support.

Your committee think that this claimant should, in view of all the facts in the case, be placed upon the pension-roll, but do not think his case is so exceptional as to warrant the amount fixed in the House bill, $25, and therefore report back the bill with a recommendation that it do pass with the following amendments: Insert in the fourth line, after the word "pension-roll," the words "subject to the provisions and limitations of the pension laws," and strike out, in the fifth and sixth lines, the words "and pay him a pension at the rate of $25 per month."

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3TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1137.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1885.—Ordered to be printed.

:r. MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 2692.]

*'he Committee on Pensions, to whom was referred the bill (H. R. 2692) granting a pension to Sarah Kennedy, have examined the same, and report*

The facts in this case appear to be correctly stated in the report of ıe Committee on Invalid Pensions of the House of Representatives I. R. Report No. 2289), made at the present session, as follows:

That the husband of Sarah Kennedy became disabled while in the service, and was scharged on account of varicose veins in both legs. The testimony shows a succes- 'n of medical examinations extending from 1871 until near the date of his death, ıich occurred July 19, 1879. That the examining surgeon who last certified his case, the 6th day of September, 1875, and on the 13th March, 1876, says: "Has varicose ns. All the saphenous veins of both legs, the entire extent from groin down to the t, * * * causing him intense pain when walking, riding, or performing any nual labor whatever, and unfitting him entirely for the same, and must of necessity ıain permanent in the present degree."

'his was the last examination made, and the soldier continued to draw his pension he date of his death at the full rate of $30 per month—captain's rank. The evi- ce is clear that the soldier was injured in line of his duty by his horse falling upon while on skirmish with the enemy and when crossing a ditch near Kelley's Ford, ginia, causing immediate injury in both legs, and from the effects of which he was ɜr able to do duty afterwards, and was discharged in consequence May 20, 1864. n the time of his injury to the time of his death the soldier was unable to perform ual labor of any kind.

appears from the evidence that on the 19th of July, 1878, while in the water ing, he was seized with cramping; he was taken with cramps and was drowned. F. E. Williams, one of his physicians, testifies that the soldier before his death me subject to cramps, and while he does not attribute the same directly to the t of varicose veins, it is very apparent that the diseased condition of his legs pre- ed him from making that exertion necessary to save his life.

appears also from the evidence in this case that Sarah Kennedy, the widow, who never married and has no means of support, was a nurse in the Army during a ion of the time her husband was in the service, first after the battle of Antietam, orming the duties of matron at Heimsburg Hospital, and also after the battle of ıericksburg, Va., from the fall of 1862 to the spring of 1863, without compensation; she is now sixty-three years old and without property, or children to support her. he committee therefore report favorably on the bill, and recommend its passage.

'he claimant's affidavit is also presented that she never had any chil- 'n, and that her husband died in indigent circumstances in 1878. e also testifies as to her own services as a nurse without compen- :ion.

G. B. McColmant, city solicitor of Bradford, Pa., also presents an

affidavit corroborating the above facts. He states that this pension would be only a simple act of justice to a deserving woman.

Dr. F. E. Williams, the soldier's family physician, testifies as follows:

Seth T. Kennedy at the time of his death was drawing a soldier's pension because of injuries received while in the Army, since which time he has been subject to severe attacks of cramping in limbs and stomach caused by said injuries. At the time of his death he was in swimming, and while in the water was taken with one of those cramping spells, which caused him to be drowned.

Your committee are of opinion that under the circumstances this testimony should be accepted to connect the cause of death with the disability for which the soldier was pensioned, and therefore report back the bill with a recommendation that it do pass.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1138.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1885.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 1805.]

*The Committee on Pensions, to whom was referred the bill (S. 1805) granting an increase of pension to Miles Barber, have examined the same, and report:*

The claimant is the father of Martin V. Barber, late a private in Company K, Second Minnesota Volunteers, who died July 7, 1864. The father was granted a pension under the general laws as a dependent father, July 13, 1869, to date from the soldier's death, at the maximum rate of $8 per month. The present bill proposes to increase this rate to $20.

To support this application he presents his own affidavit, showing that his four sons enlisted in the late war; that John served over four years, and died about six months after discharge of disease incurred in service; that Martin died of wounds, as above stated; that the other two sons are partially disabled by reason of disabilities incurred in their Army service; that his son-in-law served three years, and left three children, which claimant has since supported, and also that he is now seventy-seven years of age, and unable to support himself by manual labor, being afflicted with rheumatism.

The claimant is now receiving the full rate of pension allowed dependent parents under the pension laws. A general bill passed the Senate at the last session which proposes to increase the rate in such cases as this to $12 a month. Your committee are of opinion that it would be unwise to undertake to readjust rates by special legislation in such cases as this, and therefore report the bill adversely and recommend that it be indefinitely postponed.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1139.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1885.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 2009.]

The Committee on Pensions, to whom was referred Senate bill 2009, granting a pension to Isabella Turner, widow of Oscar D. Turner, late sergeant Company I, Twenty-third Regiment Maine Volunteers, examined the same, and report favorably, recommending the passage of the same.

The evidence shows that the soldier contracted chronic diarrhœa and other disability in the service, in line of duty, which ruined his constitution, and that ever afterwards he was greatly enfeebled and disabled from manual labor; that his power to resist disease was diminished thereby, so that he yielded to a slight attack of cold, which resulted in pneumonia, of which he died March, 1882.

The widow is left without means of support, and the evidence satisfies your committee that the real cause of his death was contracted in the service. It is a just case for relief.

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48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1140.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 2610.]

*The Committee on Pensions, to whom was referred the petition of Patrick Furlong, praying for a pension, have considered the same, and respectfully report as follows:*

Patrick Furlong, a resident of Hinesburg, Vt., enlisted in Company G, Fourteenth Regiment Vermont Volunteers, September 8, 1862, and claims that about the last day of June, 1863, he forded a stream with his command in the afternoon, and that night slept on the ground in his wet clothes, as a result of which he took a severe cold, which settled in his left hip and leg. He kept his place all through the battle of Gettysburg, although his leg pained him severely, and did not go to hospital. He was discharged the following month, went home, supposed he had recovered, and re-enlisted in Company F, Ninth Regiment Vermont Volunteers. When he joined this company at Newport Barracks, in January, 1864, he found the company without tents or any protection from the winter storms, and was soon so lame that he could only with great difficulty keep his place in the ranks. His lameness increased, but he did not go to hospital and remained on duty until discharged in November. After returning home his lameness continued to trouble him, but he considered it a rheumatic difficulty and thought good nursing would cure it. He was a poor man and did not consult a physician until about 1876 or 1877, when an examination showed that his hip and leg were withering up and wasting away, and the difficulty has since grown worse.

A careful examination of the voluminous papers on file in the Pension Office seems to fully corroborate the claimant's story, as given above, and to show that his application was rejected from a variety of causes not due to any fault of his own. His application was resisted by means of anonymous letters and statements which may have unconsciously prejudiced the Pension Office against the case. A special examination was ordered, and the examiner, after taking the testimony of a number of Furlong's comrades and neighbors, as well as of his enemies, recommended the allowance of the claim without hesitation, and considered the case so good a one that he did not take the trouble to collect all the evidence which Furlong offered him. The reviewer who passed upon the case seems to have assumed that the special examiner, who was the only official who had had an opportunity to fairly investigate both sides of the case, was unduly prejudiced in Furlong's favor. This does not appear to have been true, but the examiner rejected the

case on the ground that there was no record or medical evidence of the existence of the alleged lameness in the service or at discharge, and that the evidence obtained by the special examination failed to show its origin in the service.

Since the rejection of the claim, affidavits have been filed by three comrades, who did not testify previously, and who were in the same company with Furlong. Each of these men swear that Furlong was sound at enlistment; that he was exposed as alleged; that he never had any lameness until about the time of the battle of Gettysburg, and that he was lame through the remainder of his service and after his discharge until the present time. Furlong's temperate habits and good character are certified to by reputable citizens, who say that he was a brave soldier, who would keep in the front and avoid going to the hospital as long as it was possible for him to do so. The testimony shows that he did not call on a physician for ten or eleven years after his discharge, although his leg was wasting away year by year, and then only consulted one because he was at his house in attendance on Furlong's wife.

The claimant's indisposition to consult a physician seems to account satisfactorily for the absence of any record or medical evidence of his alleged lameness in the service, and the Pension Office no doubt adopted the safest course in rejecting his claim for the want of such proof.

But your committee believe from the evidence submitted that Furlong was disabled in the service as claimed and is entitled to a pension, and we therefore recommend the passage of the bill herewith reported.

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8TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1141.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 6726.]

*The Committee on Pensions, to whom was referred the bill (H. R. 6726) granting a pension to Margaret A. Maguire, have examined the same, and report:*

That an examination of the record and proofs in this case has satisfied the committee that the presentation of it made in the report of the Committee on Invalid Pensions of the House of Representatives is correct, and it is here adopted, and is as follows, viz:

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6726) granting a pension to Margaret A. Maguire, have had the same under consideration, and beg leave to submit the following report:*

Margaret A. Maguire is the widow of George R. Maguire, who served as first lieutenant and captain, respectively, in the Thirteenth Regiment Pennsylvania Cavalry, from October 20, 1862, to July 14, 1865. At the date of his death, June 8, 1879, he was in receipt of total pension for varicose veins of left leg, the result of typhoid fever contracted about June 1, 1863.

The claim of the widow has been rejected on the ground that the soldier's fatal disease, cancer of the bowels, was not chargeable to the military service.

It appears that Maguire came under the medical treatment of Dr. J. A. Holton, of Centreville, Md., March 22, 1879, for cerebo-spinal trouble and partial paralysis of entire right side, which, in the opinion of the physician, was caused by blood-poisoning, the result of healing up of the ulcers of the leg, by which the drain from said ulcers was thrown back into the circulation, and general marasmus was produced. Previous to that time, the soldier was confined to his room for weeks at a time by reason of the diseased condition of the leg, during which periods he was unable to retain anything in the stomach, as shown by the affidavit of Dr. Eugene Wiley. Recovering somewhat after three or four weeks' treatment by Dr. Holton, the soldier was removed to his home at Philadelphia, where he came under treatment by Dr. F. Gitchell, who testifies that when Maguire first came in his charge he was much broken down from the trouble with his leg, and, in the opinion of the affiant, would have recovered from the cancer of the bowels, which caused death, had it not been for the general impairment of his health by reason of the diseased leg.

The medical referee of the Pension Office admits that cancer is held to be referable to a blood taint, and implies the existence of such a cause necessarily, but denies that death in this case was caused by the condition of the soldier's leg.

The question to be decided by this committee is whether the opinion of that officer, who has had no personal knowledge of the case, should be accepted in opposition to the sworn statement of the attending physicians, who, from a professional knowledge of the case, are better able to judge that the cancer was caused by blood poisoning superinduced by the too rapid healing of the ulcers of the leg.

The committee are clearly of opinion that the latter should govern its action in the determination of claimant's rights, and that whatever doubts may exist should be solved in her favor, and therefore report favorably on the bill, and ask that it do pass.

The bill is herewith reported to the Senate with a recommendation that it do pass.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1142.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 2485.]

*The Committee on Pensions, to whom was referred the bill (H. R. 2485) for the relief of Treadwell Seamon, jr., has examined the same, and reports:*

That the Commissioner of Pensions, in his letter of January 24, 1885, transmitting the papers in this case to the committee, remarks that—

The officer was pensioned in 1872, for left inguinal hernia, at $7.50 per month from June 26, 1864, the date of his discharge, until 1884, when his name was dropped from the roll on the ground that the alleged disability had ceased to exist, as shown by several medical examinations. The claim for additional disability on account of alleged right inguinal hernia, chronic diarrhea, malarial poisoning, and heart disease is pending. When the papers are returned this portion of the claim may be further considered under the general law.

In view of this condition of the case your committee does not believe that it should be arrested in its course in the Pension Office, where the facilities for determining the questions involved are so much superior to any at its command.

The bill is therefore reported adversely, with recommendation that it be indefinitely postponed.

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TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1143.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1885.—Ordered to be printed.

WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 6803.]

*: Committee on Pensions, to whom was referred the bill (H. R. 6803) ranting a pension to John T. Brake, has examined the same, and reorts :*

'hat the Commissioner of Pensions, in his letter transmitting the ›ers in this case to the committee, says :

he claim has been rejected on the ground that the applicant has not been dis- ›d in a pensionable degree by reason of the alleged causes since March 19, 1883, date of filing his application for pension.

'he board of examining surgeons at Springfield, Mo., examined the mant, and in its report to the Pension Office, under date of May 7, 3, says :

ıe examination reveals the following facts:
Applicant is a particularly strong and healthy-looking man—gives a history of oc- ›nal slight attacks of spasmodic asthma. He has no symptoms of lung disease. has, however, some chronic pharyngitis. He complains of slight pains in his lders at times which are doubtless rheumatic. We find the disability as above ribed entitles him to no rating."

he committee does not find any evidence in the case which, in its gment, should be deemed sufficient to overcome this definite report he board of examining surgeons, and therefore reports the bill ad- ›ely to the Senate, with recommendation that it be indefinitely post- ›d.

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ONGRESS, } SENATE. { REPORT
Session. } { No. 1144.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1885.—Ordered to be printed.

ILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 6692.]

*ommittee on Pensions, to whom was referred the bill (H. R. 6692) ting a pension to David Whittington, has examined the same and re- :*

: the said David Whittington was enlisted as a member of Com- K, Sixtieth Missouri Enrolled Militia, and was discharged March 3. He applied for a pension December 30, 1879; the application d a pension on account of heart disease contracted in the service of duty. The claim was rejected April 7, 1883, on the ground e claimant was not in the military service of the United States he disability was incurred. There is no proof in the case tending v that this action of the Pension Office was not correct, and if this ot the case the medical evidence does not establish the fact that sability was incurred between the dates of enlistment and dis- . The only medical evidence which approaches the time of service of Dr. D. M. King, who testifies that:

about the year 1863 deponent states that he was a practicing physician in County, Missouri; that while engaged in the practice of his profession in said the military authorities of said State appointed and commissioned deponent ffice of examining surgeon in the enrollment and organization of the militia Mercer County; that while on duty as such examining surgeon of said county Vhittington * * * (now an applicant for invalid pension) presented him- examination and claimed exemption from said military service on account of l disabilities; * * * that upon examination of the said Whittington, he im afflicted with what deponent believed to be organic disease of the heart * and gave him a certificate of exemption to that effect.

oes not seem probable that organic disease of the heart was con- l on or about February 1, 1863, the date fixed by claimant when irred his alleged disability.

bill is therefore reported adversely with a recommendation that idefinitely postponed.

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5TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1145.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1885.—Ordered to be printed.

. PLUMB, from the Committee on Appropriations, submitted the following

# REPORT:

[To accompany bill H. R. 8039.]

*District of Columbia*—1886.

| | |
|---|---|
| ount of estimates for 1886, exclusive of water department | $3,480,147 97 |
| ount of House bill, exclusive of water department | 3,414,656 93 |
| ease made by the Senate committee | 21,430 00 |
| Total as reported to the Senate | 3,436,086 93 |
| ount to be paid by the United States under the bill as reported | 1,718,043 46 |
| ount of appropriations for 1885, exclusive of water department | 3,434,406 54 |
| bill as reported is less than the estimates | 44,061 04 |
| bill as reported exceeds the appropriations for 1885 | 1,680 39 |
| estimated receipts of the District for 1886, exclusive of water department, are | 1,770,261 00 |

The changes made by the Senate committee in the amounts of the use bill are as follows:

INCREASE.

| | |
|---|---|
| ary of the superintendent of chair shop, Reform School | $120 |
| aid the Association for Works of Mercy, District of Columbia | 10,000 |
| additional privates for Metropolitan police, at $900 each | 9,000 |
| scellaneous expenses, fire department | 1,000 |
| aries of teachers for public schools | 10,000 |
| pair of pest-hospital | 600 |
| Total increase | 30,720 |

REDUCTION.

| | |
|---|---|
| lanking and repainting Anacostia Bridge | $5,500 |
| draw-keeper at Benning's Bridge | 720 |
| ional Association for Destitute Colored Women and Children | 2,000 |
| pensation of watchmen, Reform School | 120 |
| toring salaries of two tillermen, $100 each | 200 |
| l, fire department | 250 |
| age, fire department | 500 |
| Total reduction | 9,290 |
| Net increase | 21,430 |

The following table shows the appropriations for 1885, the estimates for 1886, the amounts provided by the House bill, and the amounts recommended by the Senate committee for 1886:

*Comparative statement showing the appropriations for 1885, the estimates for 1886, the amounts of House bill, and the amounts recommended by the Senate Committee on Appropriations.*

| Object. | Appropriations, 1885. | Estimates, 1886. | House bill, 1886. | Senate committee, 1886. |
|---|---|---|---|---|
| Executive office | $21,244 00 | $21,244 00 | $21,244 00 | $21,244 00 |
| Assessor's office | 13,600 00 | 13,600 00 | 13,600 00 | 13,600 00 |
| Collector's office | 17,300 00 | 17,300 00 | 17,300 00 | 17,300 00 |
| Auditor's office | 16,500 00 | 16,500 00 | 16,500 00 | 16,500 00 |
| Auditor's office, temporary clerk hire | 143 96 | ..... | ..... | ..... |
| Attorney's office | 8,612 00 | 8,712 00 | 8,712 00 | 8,712 00 |
| Sinking-fund office | 2,700 00 | 2,700 00 | 2,700 00 | 2,700 00 |
| Coroner's office | 2,500 00 | 2,500 00 | 2,500 00 | 2,500 00 |
| Engineer's office | 64,750 00 | 65,490 00 | 65,490 00 | 65,490 00 |
| Miscellaneous expenses District offices | 5,000 00 | 5,000 00 | 5,000 00 | 5,000 00 |
| Total salaries and contingent | 152,349 96 | 153,046 00 | 153,046 00 | 153,046 00 |
| *Improvements and repairs.* | | | | |
| Repairs to concrete pavements | 50,000 00 | 50,000 00 | 50,000 00 | 50,000 00 |
| Materials for permit work | 50,000 00 | 50,000 00 | 50,000 00 | 50,000 00 |
| Continuing surveys of the District | 5,000 00 | 5,000 00 | 5,000 00 | 5,000 00 |
| Boundary intercepting and lateral sewers | 100,000 00 | 25,000 00 | 25,000 00 | 25,000 00 |
| Sewer debt—first installment | | *50,000 00 | ..... | ..... |
| Work on sundry streets and avenues | 263,000 00 | 257,196 00 | 265,000 00 | 265,000 00 |
| Total improvements and repairs | 468,000 00 | 437,196 00 | 395,000 00 | 395,000 00 |
| Repairing and maintaining bridges | 2,500 00 | 15,600 00 | 15,600 00 | 9,300 00 |
| Washington Aqueduct | 20,000 00 | 22,000 00 | 20,000 00 | 20,000 00 |
| To redeem four certificates of indebtedness | ..... | ..... | 366 96 | 366 96 |
| *Institutions of charity, &c.* | | | | |
| Washington Asylum | 52,310 00 | 69,680 00 | 69,680 00 | 69,680 00 |
| Reform School | 32,916 00 | 36,640 00 | 36,616 00 | 36,616 00 |
| Georgetown Almshouse | 1,800 00 | 1,800 00 | 1,800 00 | 1,800 00 |
| Indigent insane, District of Columbia, in Government Hospital, support | 50,436 00 | 119,250 00 | 53,462 00 | 53,462 00 |
| Transportation of paupers, &c | 3,000 00 | 4,000 00 | 4,000 00 | 4,000 00 |
| Relief of the poor | 15,000 00 | 15,000 00 | 15,000 00 | 15,000 00 |
| Columbia Hospital for Women | 15,000 00 | 15,000 00 | 15,000 00 | 15,000 00 |
| Women's Christian Association | 5,000 00 | ..... | 5,000 00 | 5,000 00 |
| National Association, Destitute Colored Women and Children, support | 7,000 00 | ..... | 7,000 00 | 5,000 00 |
| National Association, Destitute Colored Women and Children, furnishing, &c., new building | 2,000 00 | ..... | ..... | ..... |
| National Association, Destitute Colored Women and Children, constructing additional building | ..... | ..... | 18,000 00 | 18,000 00 |
| Children's Hospital | 5,000 00 | ..... | 5,000 00 | 5,000 00 |
| Saint Ann's Infant Asylum | 5,000 00 | ..... | 5,000 00 | 5,000 00 |
| Industrial Home School | 12,500 00 | 13,500 00 | 12,000 00 | 12,000 00 |
| Church Orphanage, District of Columbia | 1,500 00 | ..... | 1,500 00 | 1,500 00 |
| Little Sisters of the Poor, additional building | †25,000 00 | ..... | ..... | ..... |
| National Homeopathic Hospital, new building | ..... | ..... | 15,000 00 | 15,000 00 |
| Association for Works of Mercy, District of Columbia | ..... | ..... | ..... | 16,000 00 |
| Total charities, &c | 233,462 00 | 274,870 00 | 264,058 00 | 272,058 00 |
| *For streets.* | | | | |
| Sweeping, cleaning, &c., streets and avenues | 40,000 00 | 45,000 00 | 45,000 00 | 45,000 00 |
| Cleaning alleys | 10,000 00 | 10,000 00 | 10,000 00 | 10,000 00 |
| Current repairs of streets, avenues, and alleys | 25,000 00 | 25,000 00 | 25,000 00 | 25,000 00 |
| Current repairs of county roads and suburban streets | 25,000 00 | 40,000 00 | 40,000 00 | 40,000 00 |
| Cleaning and repairing lateral sewers and basins | 22,000 00 | 20,000 00 | 20,000 00 | 20,000 00 |
| Cleaning tidal sewers | 3,000 00 | 5,000 00 | 5,000 00 | 5,000 00 |
| Repairs to pumps | 3,000 00 | 3,000 00 | 3,000 00 | 3,000 00 |
| Total | 128,000 00 | 148,000 00 | 148,000 00 | 148,000 00 |

* This estimate, for first installment of sewer debt, $50,000, was withdrawn by letter of the Secretary of the Treasury of December 6, 1884.

† This appropriation was made in the sundry civil act for the current fiscal year.

*Comparative statement showing the appropriations for* 1885, *&c.*—Continued.

| Object. | Appropriations, 1885. | Estimates, 1886. | House bill, 1886. | Senate committee, 1886. |
|---|---|---|---|---|
| arking Commission | $18,000 00 | $18 000 00 | $18,000 00 | $18,000 00 |
| ighting streets, avenues, and alleys | 95,380 00 | 100,000 00 | 100,000 00 | 100,000 00 |
| Total for streets | 241,380 00 | 266,000 00 | 266,000 00 | 266,000 00 |
| etropolitan police | 337,100 00 | 351,280 00 | 335,220 00 | 344,220 00 |
| urchase of Gamewell alarm-telegraph stations | 5,000 00 | | 2,600 00 | 2,600 00 |
| ire department | 119,280 00 | 112,300 00 | 108,100 00 | 108,150 00 |
| emodeling Georgetown town-hall for engine-house | 1,658 61 | ..... | ..... | ..... |
| elegraph and telephone service | 20,440 00 | 15,440 00 | 15,440 00 | 15,440 00 |
| olice court | 16,218 00 | 16,218 00 | 16,218 00 | 16,218 00 |
| olice court, repairs to building (sundry civil) | *1,500 00 | ..... | ..... | ..... |
| *Public schools.* | | | | |
| or officers | 7,250 00 | 7,250 00 | 7,250 00 | 7,250 00 |
| or teachers | 371,850 00 | 385,000 00 | 385,000 00 | 396,000 00 |
| or janitors and care of school buildings | 28,780 00 | 31,000 00 | 30,680 00 | 30,680 00 |
| ent of school buildings | 6,460 00 | 7,000 00 | 7,000 00 | 7,000 00 |
| uel | 18,000 00 | 20,000 00 | 20,000 00 | 20,000 00 |
| epairs and improvements, school buildings and grounds | 20,000 00 | 20,000 00 | 20,000 00 | 20,000 00 |
| ontingent expenses, furniture, &c | 20,000 00 | 20,000 00 | 20,000 00 | 20,000 00 |
| urchase of sites, new buildings, and furniture | 69,500 00 | 60,000 00 | 60,000 00 | 60,000 00 |
| Total public schools | 541,840 00 | 550,250 00 | 549,930 00 | 559,930 00 |
| epairs, &c., public hay-scales | 500 00 | 500 00 | 500 00 | 500 00 |
| ent of district offices | 3,600 00 | 3,600 00 | 3,600 00 | 3,600 00 |
| eneral advertising | 4,000 00 | 4,000 00 | 4,000 00 | 4,000 00 |
| ooks for register of wills, printing, &c | 2,500 00 | 2,500 00 | 2,500 00 | 2,500 00 |
| Total miscellaneous | 10,600 00 | 10,600 00 | 10,600 00 | 10,000 00 |
| ealth department | 44,180 00 | 36,400 00 | 43,530 00 | 44,130 00 |
| eneral contingent expenses of the District for emergencies | 5,000 00 | 5,000 00 | 5,000 00 | 5,000 00 |
| nterest and sinking fund | 1,213,947 97 | 1,213,947 97 | 1,213,947 97 | 1,213,947 97 |
| Total for the District of Columbia, exclusive of the water department | 3,434,406 54 | 3,480,147 97 | 3,414,656 93 | 3,436,086 93 |
| mounts from the Treasury of the United States | 1,717,203 27 | 1,740,073 98 | 1,707,328 46 | 1,718,543 46 |

* This appropriation was made in the sundry civil act for the current fiscal year.

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ɔONGRESS, } SENATE. { REPORT
Session. } { No. 1146.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1885.—Ordered to be printed.

HOAR, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill S. 2429.]

*ɔmmittee on Claims, to whom was referred the bill (S. 2429) for the f of Moses M. Bane, have considered the same, and respectfully re- :*

Bane was receiver of public moneys for the Territory of Utah. ɔllowing letter, communicated by the Secretary of the Interior, the nature and grounds of his claim:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
*Washington, D. C., January 27, 1885.*

I have the honor to acknowledge the receipt, by reference from the Depart- n the 26th instant, for report, of a letter from the clerk of the Senate Com- on Claims, dated 22d instant, inclosing, for your views thereon, Senate bill No. for the relief of Moses M. Bane."

ill proposes that the Secretary of the Treasury be directed to pay to Mr. Bane, r of the United States local land office at Salt Lake, Utah, $1,080, for office him paid out of his private means for the years 1877 and 1878, and the first of the year 1879.

ent of local land offices, where paid by the Government, is paid from the an- ɔpropriation "for incidental expenses of the several land offices." Such appro- ı is made to cover the pay of clerks, rent, &c. It has not been sufficient to ent to be paid by the Government in all cases, but it has been necessary for ce to apportion the sum appropriated as equitably as might be, taking into ration the needs of the several offices and the business done. It has been eral rule to authorize the payment of rent of offices where the compensation officer (which is made up in part of fees and commissions) fell below a certain ım, and officers receiving more than that amount have been compelled to pay from their own means. For instance, there are at present one hundred and cal land offices. The appropriation for the current year was not sufficient to ɔr the payment of rent of all, and in apportioning it the rule was adopted to o rent to officers where the amount of business done entitled the respective to a compensation of $2,000 or more for the preceding year. Under this rule t of thirty-one offices is paid by the Government and that of seventy-seven is the different local land officers.

s in my opinion the Government is properly responsible for the payment of t in all cases, yet I do not think the bill under consideration, which proposes burse a single officer, should become a law.

officers are entitled to such relief, if any, and if the relief is to be granted d be by legislation which would apply to all similar cases.

etter of the committee's clerk, and the bill, are herewith returned.

'ery respectfully,

N. C. MCFARLAND,
*Commissioner.*

H. M. TELLER,
*ecretary of the Interior.*

The Secretary refused to recommend an appropriation for payment of Mr. Bane's claim. Claimant brought suit for the same in the Court of Claims, which court decided against him.

We think there is no reason why the present bill should pass. Congress cannot undertake to examine the condition and wants of each of the seventy or eighty local land offices to whom the Secretary of the Interior declines to allot any portion of the sum appropriated for rent of land offices, and determine whether such refusal was reasonable. If the system described in the Secretary's letter be an unreasonable one, or the sum appropriated in any past year insufficient, the remedy should be by some general law, which should be considered by the Committee on Public Lands or Appropriations.

The committee recommend that the bill do not pass.

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| | |
|---|---|
| To 1,000 pounds Orleans sugar, at 51 cents | $510 00 |
| To 400 pounds beans, at 45 cents | 180 00 |
| To 200 pounds soap, at 50 cents | 100 00 |
| To 5,000 pounds flour, at 45 cents | 2,250 00 |
| To 400 pounds barley, at 44 cents | 176 00 |
| Total | 5,050 00 |

I certify, on honor, that the above amount of provisions was actually furnished the expedition under command of Col. Jack Hays against the Pi-Ute Indians in Utah Territory; that the prices charged therefor by Dorsey, Wallace, and Shepard are just and reasonable, and that the same were necessary for the public service.

Dated at Carson River, June 10, 1860.

RICHARD A. SNOWDEN,
*Commissary Utah Volunteers.*

*The United States of America to Jno. M. Dorsey, S. B. Wallace, and William Shepard, Dr.*

To supplies furnished the expedition under command of Col. Jack Hays against the Pi-Ute Indians in the Territory of Utah, as follows:

| | |
|---|---|
| To 3,500 pounds of flour, at 70 cents | $2,450 00 |
| To 400 pounds barley, at 55 cents | 220 00 |
| To 1,100 pounds sugar, at 60 cents | 660 00 |
| To 600 pounds Java coffee, at 70 cents | 420 00 |
| To 10 gallons sirup, at $7 | 70 00 |
| To 20 sacks (5 pounds each) table salt, at $3 | 60 00 |
| To 7,700 pounds fresh beef, at 30 cents | 2,310 00 |
| Total | 6,190 00 |

I certify, on honor, that the above amount of provisions was actually furnished the expedition under command of Col. Jack Hays against the Pi-Ute Indians in the Territory of Utah; that the prices charged therefor by Dorsey, Wallace, and Shepard are just and reasonable, and that the same were necessary for public service.

Dated at Pyramid Lake, June 3, 1860.

RICH'D A. SNOWDEN,
*Commissary Utah Volunteers.*

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WAR DEPARTMENT, *December* 10, 1869.

The Secretary of War, in compliance with the request of the Committee on Claims of the United States Senate, dated April 1, 1869, has the honor to furnish all the information in possession of the War Department relative to the war against the Pah-Utah Indians, in the year 1860, and to return to said committee the list of claims against the United States arising out of said war.

WM. W. BELKNAP,
*Secretary of War.*

*List of claims for the war against the Pah-Utah Indians,* 1862.

| | | |
|---|---|---|
| No. 1. | S. B. Wallace | $1,528 00 |
| 2. | Dorsey, Wallace & Sheppard | 6,190 00 |
| 3. | Dorsey, Wallace & Sheppard | 5,150 00 |
| 4. | Jordan & McPike | 3,093 50 |
| 5. | Jordan & McPike | 9,900 00 |
| 6. | Jordan & McPike | 5,040 00 |
| 7. | Jordan & McPike | 1,440 00 |
| 8. | John Jordan | 360 00 |
| 9. | C. S. Strong, treasurer, &c | 1,105 00 |
| 10. | C. S. Strong, treasurer, &c | 1,000 00 |
| 11. | Jesse Mayhew | 200 00 |
| | | 35,006 50 |

I certify that the foregoing are correct copies of papers on file with settlement No. 8711, June 19, 1874, in favor of John McPike.

A. M. GANGEWER,
*Chief Clerk, Third Auditor's Office.*

From the foregoing papers it will be seen that Richard A. Snowden, the commissary of the Utah volunteers, certifies that S. B. Wallace furnished the expedition with supplies to the amount of $1,528; that the prices charged were just and reasonable, and that the supplies were received by him and were necessary for public service; and that in like manner Dorsey, Wallace & Shepard furnished the supplies mentioned in the two other vouchers—one calling for $5,050, the other for $6,190.

The list of claims seems to be a summary of all the supplies furnished for the expedition, as well by the parties now before Congress as others not now here, amounting in the aggregate to $35,006.50.

W. F. Shepard made an affidavit, on 10th December, 1874, that he, associated with John M. Dorsey and S. B. Wallace, furnished, in the year 1860, certain supplies for the subsistence of the troops in Utah Territory during that year, who, under the command of Col. John C. Hays, were engaged in suppressing Indian hostilities, for which supplies he and the said Dorsey were about to apply to Congress for payment, and that in the year 1861 Wallace, for a valuable consideration paid to him by Dorsey, sold, assigned, and transferred by written assignment his equal one-third interest in and to said claim and demand to the said Dorsey, who was the legal owner and holder thereof and entitled to receive Wallace's share.

This written assignment is not produced; Dorsey in his affidavit swears it was duly executed but is lost; that Wallace died insolvent, and no administrator was ever appointed to administer upon his estate.

John C. Hays makes affidavit that he was commander of the volunteer force at the Indian outbreak which occurred in 1860, and that he believes that the said Dorsey, Shepard & Wallace faithfully performed the verbal contract made with him as commander and Richard M. Snowden as commissary, and that they furnished flour, bacon, salt, &c., for the use of the volunteers under his command, and that they should have been paid long ago.

On the 17th of February, 1876, Mr. Dorsey made an additional affidavit before John T. C. Clark, a justice of the peace for the District of Columbia. Mr. Dorsey, in his affidavit, states at length and with much particularity, that all the goods charged for in said claim, and which were duly certified to in the month of June, 1860, by Col. R. A. Snowden, commissary of the volunteers, were actually furnished at the terms stated in the vouchers given by Colonel Snowden, and that the prices charged were the actual cash value at the time the goods were furnished.

Mr. Dorsey further states in this affidavit that Colonel Snowden, the commissary, died in 1861, at the Humboldt mines, in Humboldt County, Nevada, and for this reason his affidavit in support of this claim could not be procured.

A. St. C. Denver made an affidavit in support of the claim on the 17th day of February, 1876, in which he states that he was intimately acquainted with the said Dorsey, Shepard, Wallace, Snowden, and Hays; that they were all men of good reputation, whose statements would be believed in the community where they lived.

John M. McPike, of Napa County, California, makes an affidavit, under date of February 25, 1876, in which he states that he knew Dorsey, Shepard, and Wallace in 1860. They were then trading together in what is now the State of Nevada; that he was present when the contract was made between this firm and Richard M. Snowden as commissary of Colonel Hays's exedition against the Pi-Ute Indians; that the prices to be paid were as follows, viz, flour, 70 cents per pound; sugar, 60 cents per pound; bacon, 80 cents per pound; coffee, 65 cents per pound. That the prices to be paid for the other articles to be furnished were reasonable and proper; that all the articles to be delivered had to be carried by the contractors on pack-mules for from two to three hundred miles over mountains covered with deep snows. Mr. McPike also swears that he knows that Dorsey & Co. delivered supplies to Mr. Snowden, but he is not able to state the quantity; and that he was present when Colonel Snowden delivered the vouchers or certificates to Dorsey.

A. E. Shiras, assistant commissary-general of subsistence, writes to J. M. Latta, attorney, at Washington, under date of April 1, 1867, in relation to these claims, which had been filed in the Commissary-General's Office, as follows:

"No records in this office or in that of the Adjutant-General show any authorization by the Government of the regiment or command for which the stores appear to have been procured, or that any law has ever been enacted which would authorize the payment of the accounts."

On June 17, 1874, an act was passed directing the Secretary of the Treasury to pay the sum of $19,473 50 to John M. McPike, in full settlement for beef and supplies furnished the troops by Jordan & McPike in quelling the Indian disturbances in the Territory of Utah, now the State of Nevada, in 1860. (See United States Statutes, page 40 of private acts, chapter 296.)

There is no doubt of the existence of the disturbances as alleged in the memorial. The amount and value of the supplies delivered by claimants to Snowden, as commissary, is satisfactorily proven by the vouchers issued by him therefor, by the memorial

of claimants sworn to by Dorsey, and by the affidavits of Colonel Hays, of Denver, of Shepard, of Triplett, and of McPike.

The accounts embodied in this report are the identical accounts filed in the War Department, and Dorsey swears to their correctness, to his ownership of Wallace's portion, and that no part of the account has been paid.

The case of Jordan & McPike differs from this in the fact that there was a written contract made between Jordan and McPike of the one part, and Snowden of the other, fixing the price of the beef to be furnished. The affidavit of Colonel Hays furnished in that case was more full than in this, showing the urgency of the occasion for organizing this military force, and the economy with which the expedition was concluded. He says the volunteers neither asked nor received any pay.

The committee recommend the passage of the bill.

Your committee concurs in its former recommendation.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1148.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1885.—Ordered to be printed.

Mr. HOAR, from the Committee on Privileges and Elections, submitted the following

## REPORT:

*The Committee on Privileges and Elections, to whom were referred the credentials of William M. Evarts, as a Senator elected from the State of New York for six years from the 4th day of March,* 1885, *have considered the same and report:*

The papers referred to the committee seem to be transcripts of the records of the proceedings of the two houses of the general assembly of the State of New York, on the occasion of the election of a Senator for the aforesaid term, authenticated by their presiding and recording officers. Such transcript is not required by the law of the United States to be furnished to the Senate as evidence of the election of a Senator.

On the other hand, the document is not signed by the executive of the State or countersigned by the secretary of state. This is expressly required by the Revised Statutes of the United States, Title 2, chapter 1, sections 18 and 19.

We are of opinion that the credentials are defective, and recommend that they lie upon the table.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1149.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1885.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

# REPORT:

*The Committee on Claims, to whom was referred the petition of Mary D. Hamilton, Francis A. Hamilton, Mrs. L. M. McKinney, and J. D. Hamilton, have considered the same, and report as follows:*

The claimants allege that they are residents of Marshall County, Mississippi; that their father, David A. Hamilton, died July 7, 1858, leaving his wife, R. C. Hamilton, and his seven children legatees under his will; that under said will his said widow and children were the joint owners of certain property, which was taken by United States troops in 1862 and 1863, during the war of the Rebellion, for which no vouchers were given; that R. C. Hamilton, the widow of David A. Hamilton, is deceased, and that claimants are the surviving children and heirs of their mother, who died intestate; that claimants cannot prove the loyalty of their mother, and do not therefore ask payment for her share of the property, nor for that of two sisters, one of whom was of age in 1865, but whose loyalty cannot be shown, and one of whom assigned her joint interest in the property before the war of the Rebellion. The claimants allege that they were all minors at the time the property was taken, and as such "had no opinions as to loyalty or disloyalty, and had nothing to do with the war." They therefore pray that their claim, amounting to four-sixths of $6,301, may be referred to the Court of Claims with full jurisdiction to pass upon and adjudicate it.

The claimants state in their own petition that no vouchers were ever given for the property taken, and it is therefore probable that the property was confiscated, especially as the Union troops were encamped in that vicinity for some time. Vouchers would probably have been given had the proper officers intended that the property should be paid for. The claimant's mother did not die until 1876. Affidavits of her neighbors at the time of the seizure are presented, but they say nothing of her loyalty, of which they would have known had she been loyal. It is therefore likely that the property was seized as the property of a disloyal person. Without inquiring whether the claimants, or any of them, had reached an age of sufficient discretion to have formed political opinions or rendered aid to either side in the late rebellion, they do not appear to have been affirmatively loyal, and the property must under the circumstances be affected, *prima facie*, by the status of that one of the joint owners from whose possession it was taken. At any rate the Government ought not to undertake, at this late day, to investigate the ownership of political neutrals in property seized and confiscated in the hands of Confederate sympathizers.

The committee recommend that the prayer of the petitioners be not granted.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1150.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1885.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

# REPORT:

*The Committee on Claims, to whom was referred the petition of Susan Goode, of Marshall County, Mississippi, praying for compensation for certain stores taken by United States troops, have considered the same, and report as follows:*

The claimant alleges that her father, W. W. Walker, died intestate on the 30th day of July, 1850, leaving as heirs his widow, Mrs. Sarah C. Walker, and four children, viz, Logan Walker, born July 8, 1841; Sallie Walker, born March 29, 1843; Nannie Walker, born May 26, 1845; and Susan Walker (the petitioner), born July 17, 1849; that during the war of the rebellion certain property and stores owned jointly by the claimant, her mother, and her sister, Nannie Walker, which had been inherited from W. W. Walker; that no vouchers or receipts were given, so far as the petitioner knows; that the claim has never been presented to any department or tribunal of the Government for payment; that the claimant was a minor at the time of the seizure and during the war, and had, and could have had, no disloyal opinions; that she claims only her one-third interest in the property taken, and prays that she be either paid by act of Congress, or else that her claim may be referred to the Court of Claims for adjudication and settlement. The value of the property alleged to have been taken is $3,098, of which amount the claimant asks one-third.

The claimant's mother, who owned a one-third interest in the property taken, makes an affidavit, in which she states that she makes no claim to payment for her share of the property, because she "can make no proof of loyalty to the Government of the United States;" that in the fall of 1862 troops under the immediate command of Generals Grant and Sherman camped near her house, and remained there until January, 1863, some of the officers making her house their headquarters; that when these officers left her house, one of them, one Colonel Gilbert, gave her a statement in writing of what had been taken so far as he knew, which statement was some years ago destroyed when her house burned. No other evidence of the giving of such a statement is presented. The only other evidence shown consists of affidavits of the claimant's brother and two neighbors, all relating to the value of the property alleged to have been taken.

The evidence is too indefinite in its character to warrant a favorable report. Besides, as it is presumable that had the mother been loyal

she would have averred her loyalty, the case would come under the principle adopted by this committee in its report upon the petition of Mary D. Hamilton *et al.*, viz, that it is inexpedient at this late day to investigate the interests of minors in property seized for the use of the Government in the hands of disloyal parents and guardians with whom such minors may be joint owners.

The committee recommend that the prayer of the claimant be not granted.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1151.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1885.—Ordered to be printed.

Mr. PIKE, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill H. R. 4382.]

*The Committee on Claims, to whom was referred the bill (H. R. 4382) for the relief of Willam H. Davis, having considered the same, respectfully submit the following report:*

That the claimant alleges that he was the owner of a wharf and warehouse at San Diego, in the State of California; that it was constructed, in 1851, of wood; that it was 550 feet in length by 50 feet in width, with an addition adjoining the same at right angles 225 feet in length; that the kind of wood used in the construction was redwood, the piles being driven into the earth 6 feet apart and braced together with plank, and covered with imported spruce plank, and that its cost was $60,000.

He further alleges that during the winter of 1861-'62 the United States troops in service at that place, under command of Maj. G. O. Haller and other officers, used a large part of the material of which said wharf was constructed for fuel, building, and other purposes; that said wharf was the only one at San Diego; that prior to 1861 the claimant had received a net average profit from said wharf of $150 per month, and that it was destroyed and became worthless to him in consequence of the appropriation and use of the material of which it was made by Major Haller and the officers and soldiers of his command.

This claim was first presented to Congress in 1872, when it was upon the file of the committees of the two houses, without action, until the Forty-fifth Congress, when it was reported favorably by the Claims Committee of the Senate and the Committee on War Claims of the House; that it was not acted upon by either branch of that Congress; that the Forty-sixth Congress passed an act for the relief of the claimant, which was approved March 3, 1881. It authorized and directed the Secretary of War to cause the claim to be investigated by the Quartermaster Department of the Army, the alleged taking by the United States authorities, for the use of the United States troops, during the years 1861 and 1862, of the said wharf and warehouse property, and whether the same had been so taken and used for fuel and other purposes by the troops of the United States, and to inquire as to the title of the said property, by whose direction, authority, or permission the same had been used, and the reasons for the neglect to give notice to the War Department at or soon after the use was made, and that the Secretary of War report the result thereof to Congress, with his recommendation for action in the premises.

Pursuant to said law, Colonel Saxton, of the Quartermaster-General's Department, was authorized, on April 5, 1881, to make the investigation and report so directed. He made said investigation and duly reported the result to the Quartermaster-General. The Secretary of War, on December 13, 1881, acting upon the investigation and report of Colonel Saxton, recommended that the claimant be paid the sum of $3,000, with interest thereon from February 1, 1862, at the rate of 6 per cent., in full satisfaction for the claim arising out of the matters referred to in said act, and addressed the same to the Speaker of the House of Representatives. The sum recommended by the Secretary to be paid the claimant amounted to $6,570.

There does not seem ever to have been any question but that there was something due the claimant, but the principal and most difficult question in the case from the beginning has been the measure of compensation to which the claimant was entitled.

The testimony submitted prior to the act of March 3, 1881, was very conflicting and of an unsatisfactory character. One or more of the committees of Congress, either of the House or Senate, had reported $20,000 as a just sum to be allowed the claimant. The House of Representatives, at the present session, have passed the aforesaid bill, allowing the claimant $6,000.

The committee were of the opinion that the amount of $6,000, if not a much larger amount, ought to be allowed the claimant.

The committee therefore recommend that the House bill allowing $6,000 be passed.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1152, and views of minority.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 5207.]

*The Committee on Pensions, to whom was referred the bill (H. R. 5207) granting a pension to Adelbert Stickney, have examined the same, and report:*

The facts in this case have been set forth in the report of the Committee on Invalid Pensions of the House of Representatives (H. R. Report No. 1588), as follows:

Soldier enlisted August 31, 1861, and was mustered September 4, 1861, and served as a private in Company G, Eighth Wisconsin Volunteers, until honorably discharged, September 16, 1864.

Declaration for pension was filed August 9, 1869, claimant alleging that at Memphis, Tenn., July 27, 1864, while in line of duty, he received a gunshot wound in right knee, causing stiffness.

Col. U. B. Britton, in an affidavit filed, says that claimant, while in camp at Memphis, Tenn., July 27, 1864, and in line of duty, received a gunshot wound of right knee, from the accidental discharge of a comrade's gun, and that he has never fully recovered from the same.

Comrades Henry Martin and Michael Flynn testify that July 27, 1864, claimant received a gunshot wound in right knee while passing through the camp of one of the regiments of the brigade; that they came on the ground immediately after the wounding, and saw him placed in the ambulance. They testify from personal knowledge.

Lieut. W. H. Dalty, in answer to a Pension Office letter, states that he does not think claimant entitled to a pension, as he (claimant) was not on duty at the time and was out of camp without permission. He understood at the time that claimant received the wound in a street fight, and therefore refused to sign claimant's petition for a pension on that account.

Capt. C. P. King, in answer to a Pension Office letter, states that he has no personal knowledge of the affair, as claimant received the wound during his (King's) absence, but was informed upon his return that he was wounded in a street broil, and not while in line of duty.

Claim was rejected April 9, 1878, upon the ground that alleged disability was not contracted in the line of duty.

Your committee haven taken into consideration the fact that claimant served three years in the Army, and received a gunshot wound about three weeks before his term of service expired (which he has proven by Colonel Britton and Comrades Martin and Flynn); also his record evidence of hospital treatment and the report of the examining surgeons at Milwaukee, Wis., stating claimant's leg stiff at the knee and rating his disability such as to entitle him to $10 per month.

Your committee recommend that said bill be amended by adding thereto the words, "from and after the passage of this act," and that it do pass as amended.

In view of all the facts in the case, your committee report back the bill with a recommendation that it do pass.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# VIEWS OF THE MINORITY:

*A minority of the Committee on Pensions, to whom was referred H. R. 5207, granting a pension to Adelbert Stickney, respectfully submit the following views:*

The House report adopted by a majority of the committee does not, in our opinion, present this case in its proper light. Several material facts are omitted. The pension papers in the case before the committee disclose the following state of *facts:* On the 9th August, 1869, the said Stickney filed his original application for pension, alleging as the basis of his claim that on the 27th July, 1864—

*In an attack upon Memphis, Tenn., made by the rebel forces under Forrest, he (the claimant) being with his own company and regiment, in line of battle, resisting said attack, received a wound, either from a gunshot or shell,* in the center of the cap of his right knee-joint, in consequence of which his right leg has been stiff ever since and is now stiff.

This statement was formally *sworn* to.

On the 11th August, 1877, he filed a second declaration, alleging that at Memphis, Tenn., on the 27th July, 1864—

*He accidentally* received a gunshot wound through the right knee-joint; *that he was returning to his camp, having been on pass; a gun was fired from some of the camps, by some person to him unknown, the ball* passing through his right knee-joint, and that said joint has been stiff up to the present time.

This statement was also sworn to. It is not pretended that the claimant received more than the *one* wound, and no explanation is given or attempted of those two *contradictory* statements.

The claimant filed the affidavits of three parties in support of his claim. Two comrades, Martin and Flynn, simply state that he "received a gunshot wound in right knee while passing through the camp of one of the regiments of the brigade; that they came on the ground *immediately after* the wounding, and saw him placed in the ambulance and taken to the hospital." They were not present *when* the claimant received the wound, and do not pretend to state *how* or *under what circumstances* it was received. Their statements do not show that the wound was received either *accidentally* or in the line of duty. The third affidavit was that of W. B. Britton, lieutenant-colonel of the Eighth Wisconsin Regiment, to which claimant's company belonged, made November 24, 1877, who simply states "that said Stickney, while in the Army at Memphis, Tenn., and in the line of his duty, received a gunshot wound in the right knee from the accidental discharge of a comrade's gun." Shortly after the filing of this affidavit the Commissioner of Pensions addressed to Colonel Britton a letter requesting him to state whether he had any *personal knowledge* that the claimant received the gunshot wound *while in the line of duty*, and requesting the names and post-office addresses of the claimant's captain and lieutenant, who were with the company at the time the wound was received, together with any other information he could furnish about the matter. To these

inquiries Colonel Britton replied under date of March 11, 1878, as follows:

*I cannot say of my own knowledge* that said Stickney was wounded while in the discharge of his duty as a soldier, but *understand* that at the time he was wounded he was engaged in quelling a disturbance between some soldiers and citizens. At the time of his receiving the wound I, with my regiment, was on veteran furlough in Wisconsin.

He further stated that the claimant was left with a detachment under command of Capt. B. S. Williams, of Company D, Eighth Wisconsin, and also gave the names and post-office addresses of the captain and first lieutenant of Stickney's company. This letter takes from Colonel Britton's affidavit the importance and weight given to it by the majority of the committee, as it shows he had not and could not have had any "*personal knowledge*" of the facts connected with claimant's wound. But upon the receipt of his letter, the Commissioner of Pensions addressed to Capt. B. S. Williams, under whose immediate command said Stickney was left, a letter requesting him to inform the office "whether he (claimant) received a gunshot wound of right leg (knee) while in line of duty, at Memphis, Tenn., July 27, 1864," and asking for any information he could furnish on the subject. To this Captain Williams replied, under date of March 30, 1878, as follows:

In reply to your inquiry in regard to the gunshot wound of Adelbert M. Stickney, *my recollection is that he received the wound while in town and not while in the line of duty with his company.*

This material statement of Captain Williams is entirely overlooked in the majority report, although it is the best and most direct evidence in the case.

In response to letters of inquiry, the Commissioner of Pensions received letters from Captain King and Lieutenant Doty. The latter states, under date of March 25, 1878:

In regard to the claim of A. M. Stickney for a pension, I would say, *that I do not think he is entitled to it, as he was not on duty at the time, and was out of camp without permission.* I *understood* at the time that he *got* the *wound in a street fight.* I have refused several times to sign his petition for a pension on that account.

Captain King says:

In reply to your favor referring to claim of Adelbert M. Stickney will say, I have no *personal knowledge* of the affair, as he received the wound during my absence from the command, *but I was informed upon my return that he was wounded in a street broil, and not while in line of duty.*

The probability that claimant was wounded in a street fight or broil is corroborated by a fact disclosed in the report of the Board of Medical Surgeons who examined him in February, 1878, at Milwaukee. This Board say, "We are of the opinion that the injury was *caused by a pistol ball.*"

The rolls of the company report the claimant absent and in hospital during the months of July and August, 1864. Upon this state of facts the claim was rejected by the Commissioner, because it did not appear that the injury was received in line of duty. An appeal was taken to the Secretary of Interior, who, under date of February 21, 1880, sustained the action of the Pension Office, in the following opinion:

Pension is claimed for disability from a gunshot wound of the right knee. In his first application for pension, filed in 1869, the claimant alleges that the wound was received while in line of battle with his company and regiment in an attack made by the enemy upon the city of Memphis, July 27, 1864. In another application, filed in 1877, he states that on the date before alleged, while he was returning to his camp, having been on a pass, he was shot by some person in some of the camps, to him un-

known. The testimony he has filed is in support of the latter statement, but neither of the three witnesses was present at the time and has any personal knowledge of the facts. On the other hand, from information obtained by the office from officers under whom he was then serving, it appears that the circumstances were such as to warrant the belief that the soldier was not in the line of duty at the time he was wounded. The evidence on file is not sufficient to prove that the wound of the right knee was received in the line of duty, and the refusal of your office to allow the pension is affirmed on that ground.

The case is before your committee on *precisely* the same papers and evidence upon which it was considered by the Pension Office and by the Secretary of Interior, and to reverse their decisions on such a state of facts as this case presents will be to disregard the absence of evidence and the real probabilities of the case.

The undersigned accordingly think that the bill should not be passed by the Senate.

HOWELL E. JACKSON.
J. N. CAMDEN.
A. H. COLQUITT.
JAS. H. SLATER.

O

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1153.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 1655.]

*The Committee on Pensions, to which was referred the bill (S. 1655) granting a pension to Newton J. Burris, has examined the same, and reports:*

That the evidence in this case shows that Newton J. Burris enlisted as a private in Company I, Sixty-eighth Regiment of Indiana Volunteers, August 7, 1862; that he served until June 20, 1865, when he was mustered out with his company; that he was a sound man when he entered the service is proved by Dr. William F. Reiley, who was his family physician, who testifies that he was a healthy, robust man; that he contracted disease in the service for which he claimed a pension; that said disease has resulted in epilepsy; that he is disabled to the total degree, as shown by the report of the Board of Examining Surgeons at Indianapolis, Ind., in which he is rated at total and permanent disability on July 6, 1881; that the record evidence furnished by the Adjutant-General verifies this allegation as to date of original incurrence of disability; and other evidence in the case satisfies the committee that the present disabled condition of said Burris is the result of development from the disease contracted in the service.

The bill is accordingly reported to the Senate with a recommendation that it do pass.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1154.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 6882.]

*The Committee on Pensions, to which was referred the bill (H. R. 6882) granting a pension to John Otis, has examined the same, and reports:*

That an examination of the record, papers, and evidence in this case verifies the report of the Committee on Invalid Pensions of the House of Representatives, which is here adopted by your committee, and is as follows, viz:

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6882) granting a pension to John Otis, having considered the same, report as follows:*

John Otis is the father of Thomas Otis, deceased, who was a private in Company F, Twelfth Iowa Infantry Volunteers, as was also the father, the claimant. Claimant filed his application for pension as dependent father of the deceased soldier, Thomas Otis, on the 24th of June, 1880. The application was rejected by the Pension Office on the ground that the claimant himself was in the service of the United States at the date of the soldier's death, and for some time subsequent thereto, and was not therefore dependent upon the soldier.

This is, perhaps, correct under the technical rules of the Pension Office; but there are some very strong equities connected with this application, to which your committee take pleasure in calling attention. The son, Thomas Otis, was an unmarried man. He was enlisted on October 11, 1861, at Manchester, Iowa, and upon the records of the Adjutant-General's Office is reported missing in action at Pittsburg, Tenn., April 6, 1862, and is so reported up to the time of his death and after. He died June 16, 1862, at Montgomery, Ala., a prisoner of war. The records of the Adjutant-General's Office allege that the transcript from the final statement by Lieutenant Gift shows him to have died June 16, 1862, "caused by abuse of captors."

The father, the claimant herein, was entirely unfit for active duty when he enlisted and was forty-five years of age; and by reason thereof was principally assigned to hospital duty; and after remaining in the company and regiment in which he enlisted a short time, was transferred to the Veteran Reserve Corps, where he remained until he was discharged on November 24, 1864. The wife of claimant, the mother of Thomas Otis, aforesaid, died on September 11, 1859. The record shows that claimant is practically without any property, the assessment rolls from the county of his residence showing that in 1879, 1880, and 1881, respectively, he was assessed on 50 cents for each of those years. He is now an old man, afflicted with double scrotal hernia of such size as to impede his locomotion, and has so suffered for a number of years. The uncontradicted evidence of examining surgeons, other physicians, and neighbors all show that claimant is totally disabled for the performance of manual labor.

The case, upon the whole, seems to be one commending itself strongly to the consideration of your committee. The fact that the father and claimant was in the service and endeavored to serve his country to the best of his ability should not, we think, in his old age, be the means of cutting him off from the support which might have been granted him had he not entered that service. The evidence of disinterested witnesses also shows that the son, during the time he was in the service and prior

thereto, contributed to the support of his father. The witnesses give the deceased soldier, the son of the claimant, an excellent character, and your committee think it unnecessary to dwell further on the details of this, to them, most meritorious case.

Your committee recommend that the title of the bill be amended by striking out all after the words "John Otis," and that the bill be amended by inserting the words "dependent father of Thomas Otis" after the word "Otis," in the sixth line of said bill, and that as so amended the bill do pass.

The bill is accordingly reported with a recommendation that it do pass.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1155.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 2002.]

*The Committee on Pensions, to which was referred the bill (H. R. 2002) for the relief of Mrs. Jennie E. Johnson, has examined the same, and reports:*

That your committee adopts the statement made of this case by the Committee on Invalid Pensions of the House of Representatives in its report to that body, and which is as follows, viz:

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2002) granting a pension to Mrs. Jennie E. Johnson, having considered the evidence in the case, report:*

That claimant is the mother of Charles P. Johnson, who enlisted in the military service of the United States as a private in Company A, Seventeenth Regiment Iowa Volunteers, February 25, 1862, and was promoted successively first lieutenant and captain, and who was by special act of Congress approved February 21, 1868, retired as a captain, and died April 21, 1879, from the effect of wounds received at the battle of Big Black River.

The evidence in the case discloses the following facts:

He enlisted at Leon as a private in Company A, Seventeenth Volunteer Regiment of Iowa Infantry, and was mustered into United States service March 21, 1862, as first sergeant. Through natural efficiency and strict attention to duty he was promoted to the rank of second lieutenant September 4, 1862, and was commissioned as captain June 3, 1863, and was the only officer in the Regular Army commissioned by special act of Congress.

In the same year, while leading his company in a charge at the Big Black River in the rear of Vicksburg, he was wounded by a Minie-ball passing horizontally from side to side through the body, between the rectum and the spinal column, tearing away a part of the former, fracturing a vertebræ of the latter, and injuring the spinal cord to such an extent as to paralyze the lower extremities. The hospital surgeon thought the case hopeless, but by request, and also thinking to perform the last kind act for a friend, the regimental surgeon came and dressed his wounds by drawing a silk handkerchief, one-half at a time, entirely through his body. The next day he fell into the hands of the rebels and was transported in a cattle car to Atlanta, where his mother, having beard of his condition, reached him some time afterward. He remained here until the occupation of the city by General Sherman, when he with his mother were sent to Saint Louis, Mo. The nature of his wounds finds no parallel in the medical records of either Europe or America. The only position he could assume was that of lying on his face, and for sixteen years he could not find relief from his sufferings in any other position. For years, upon eating tomatoes, blackberries, or any fruit having fine seeds, these would tear open his wounds afresh and the natural excrement of the body find three avenues of escape.

After the death of Captain Johnson his widow was granted a pension, which she continued to receive up to the time of her death.

The soldier left no children, and with the death of his widow there was no one left with a legal claim against the Government for pension.

It is shown by the evidence that the mother, who is the claimant in this case, nursed

of the accompanying bill, amended, however, by striking out all after the "United States," in line seven of said bill, and insert the following: "Subject provisions and limitations of the pension laws."

The bill is accordingly herewith reported to the Senate, with ommendation that it do pass.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1156.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 6997.]

*The Committee on Pensions, to which was referred the bill (H. R. 6997) granting a pension to Henry Davis, has examined the same, and reports:*

That the Committee on Invalid Pensions of the House of Representatives made to that body the following report on this case, viz:

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6997) granting a pension to Henry Davis, report:*

That claimant enlisted in the military service of the United States as lieutenant-colonel of the Eighty-second Regiment Indiana Volunteers, August 27, 1862, and resigned October 1, 1863, on account of inability to stand the hardships of the service.

June 11, 1883, he filed an application for pension, alleging that at the battle of Chickamauga, September 20, 1863, he contracted hernia, which was rejected January 30, 1884, on the ground that claimant did not mention the disability in his resignation from the service.

Dr. John W. Newland, of Bedford, Ind., testifies June 11, 1883, that he has known claimant for twenty-five years or more; was his family physician while he lived at Bedford before enlistment; he was then a sound, healthy man, free from hernia. About ten years ago he consulted affiant in reference to the use of the Egelson truss. At that time I made a personal examination of him, and found that he was ruptured on both sides at the lower extremities of the abdomen.

Dr. Addison W. Bare, Bryantsville, Ind., testifies, "that about September 20, 1862, the date of claimant's enlistment and prior thereto, I was his family physician, and consequently very intimately acquainted with him; that he was then a sound man, in good health, and free from hernia."

Charles D. Briggs, Isola, Kans., testifies:

"At the battle of Chickamauga, September 20, 1863, I saw claimant at the time he received his injury. He was serving on foot with the regiment. I saw him fall during the heat of the battle, and supposed he was killed, and it was so understood along the line. He, however, only received an injury from which hernia of both sides ensued. Knows this from personal knowledge and being present at the time."

In answer to a letter from the Pension Office, the witness further says:

"I believe his hernia was received from an accident on the battle-field of Chickamauga. Companies A, B, and C of the Eighty-second Indiana were detailed with Churche's Fourth Michigan Battery to act as skirmishers, and while upon said line the rebel forces attempted to take said battery. Lieutenant-Colonel Davis started to that point to rally some of the men, when his foot caught in a root or his saber, and he fell heavily upon the same, which I think penetrated the groin and produced hernia, as I understood at the time."

Calvin E. Pearson, of Alaska, Ind., testifies to substantially the same as above witness.

Morton C. Hunter, colonel of claimant's regiment, testifies:

"At the battle of Chickamauga we were dismounted on account of the nearness of the enemy, and we were in the woods. My regiment formed the second line of the Third Brigade, Third Division, Fourteenth Army Corps. The first line was driven back and passed over my regiment, which at the time was lying down. After they

had passed over I ordered my regiment to fire; then ordered a charge, which drove the enemy back and regained the breastwork from which the first line had been driven. I ordered Col. Henry Davis to deploy the two right companies and protect my right flank. This order he promptly obeyed. Colonel Davis with his line of skirmishers was driven back slowly, fighting from tree to tree. While going back his sword-scabbard was struck by a ball, the former getting between his legs, throwing him down. From this fall Colonel Davis was injured. I saw his saber-scabbard a few minutes afterwards, and it was bent from having been struck by a ball."

In addition to the evidence specifically referred to above, it is clearly shown that the soldier was free from disease at the time of his enlistment, and that his disability has continued from the time of his discharge from service, being given by the United States Examining Board of Mitchell, Ind., in an examination made September 5, 1883, at three-fourths total. In view of these facts your committee recommend the passage of the accompanying bill.

An examination of the record and proofs in this case verifies the foregoing report.

Your committee accordingly reports the bill to the Senate with a recommendation that it do pass.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1157.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 2160.]

*The Committee on Pensions, to which was referred the bill (S. 2160) granting a pension to Robert Walker, has examined the same, and reports:*

That the said Robert Walker was enlisted as a private in Company B, Seventy-first Indiana Volunteers, July 20, 1862, and was discharged for physical disability in December, 1862. He filed application for pension April 23, 1879, alleging injury to back incurred during engagement near Richmond, Ky., August 30, 1862. His claim has been rejected by the Commissioner of Pensions on the ground that no disability from said alleged cause has existed since date of discharge.

There is no question raised as to soundness prior to enlistment, nor of the date and character of the said alleged injury. These facts are proved and seem to be admitted by the Pension Office. He has had three medical examinations. By one he is rated at one-half total disability, one at one-quarter, and one at no disability. The report which rates his disability at one-half states that it is permanent. The testimony of neighbors well acquainted with him, and whose reputation for truth is certified as good, rate him at from one-half to three-quarters disabled.

The committee is satisfied from the testimony that the soldier is disabled in a pensionable degree, and consequently reports the bill to the Senate with a recommendation that it do pass.

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48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1158.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 1436.]

*The Committee on Pensions, to whom was referred the bill (S. 1436) granting a pension to Francis M. Cox, have examined the same, and report as follows:*

That in 1874 the said Francis M. Cox filed his application for invalid pension, alleging that on the 13th June, 1864, at Buchanan, on the James River, in the State of Virginia, he received a gunshot wound in the right side; that in consequence of said wound he has been rendered unfit to attend to his business a great portion of his time. The records of the War Department show that the said Cox was accidentally wounded at said time and place. It also appears from the testimony of comrade H. Slack and Surgeon Comstock, the only evidence filed in the case by claimant, that he was wounded *accidentally*, but they fail to state or show the circumstances under which the wound was received. The Commissioner, deeming this material, requested the claimant to furnish the post-office addresses of Messrs. Slack and Comstock, to the end that the case might be properly investigated, but the claimant has failed to furnish the desired information. The case is still pending in the Pension Office, awaiting claimant's pleasure to give the post-office addresses of his witnesses, so that its proper examination may be proceeded with. Your committee are not inclined to recommend special relief in such cases. To do so would soon withdraw from the Pension Office all pending and doubtful cases, and convert this committee into a branch pension department.

The committee recommend the indefinite postponement of the bill by the Senate.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1159.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 1515.]

*The Committee on Pensions, to whom was referred the bill (S. 1515) granting a pension to Beverly Post, have examined the same, and report as follows:*

The claimant enlisted May 17, 1861, and was discharged May 28, 1863. He re-enlisted January 19, 1864, and was again discharged August 1, 1865. He claims to have received a rupture in June, 1862, while building corduroy roads across the Chickahominy swamps. He offers no proof except his own affidavit and that of one comrade, who says he complained to him of a rupture. He says "he has no further proof." Claimant says the injury was received June, 1862. He served out that term of enlistment, re-enlisted, and served until the close of the war, but has no evidence of any treatment during the service. That he is suffering from a rupture now is certain, but there is no evidence that the disability had its origin in the service. There is an entire absence of testimony on the subject, and no records on which to rest the claim. It was properly rejected by the Commissioner of Pensions, and your committee can find no grounds on which to base a favorable recommendation in the papers submitted to them.

They accordingly recommend that the bill be indefinitely postponed by the Senate.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1160.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 476.]

*The Committee on Pensions, to whom was referred the bill (S. 476) for the relief of Seth Colvin, have examined the same, and report as follows:*

That Seth Colvin enlisted in Company C, One hundred and forty-seventh New York Volunteers, August 21, 1863, and was discharged 14th December, 1863, upon surgeon's certificate, dated December 2, 1863, that he was "incapable of performing the duties of a soldier because of phthisis pulmonalis existing previous to entering the service. He is not physically suitable to enter or re-enlist in the Invalid Corps." In October, 1864, he, however, re-enlisted, and was discharged July 1, 1865. In August, 1879, he filed his application for pension, alleging that he contracted inflammation of the lungs about October 13, 1863, at Brandy Station, Va. The claimant entirely failed to establish the origin of his alleged disability in the service, or to show any incorrectness in the certificate on which he was discharged. The claim was accordingly rejected in 1881, on the ground that the alleged disease of lungs existed prior to enlistment. Subsequently his attorney was notified that any evidence filed to impeach the record would be considered, but no satisfactory evidence was ever produced, and the case was never reopened. The action of the Commissioner in rejecting the claim was correct, and the papers disclose nothing upon which your committee would be warranted in recommending special relief.

We report the bill back to the Senate with the recommendation that it be indefinitely postponed.

O

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1161.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 1443.]

*The Committee on Pensions, to whom was referred the bill (S. 1443) granting a pension to Peter Riley, have examined the same, and report as follows:*

That the said Peter Riley enlisted as a private in Company H, Sixth Regiment Kansas Cavalry, in January, 1862, and was honorably discharged March 9, 1865. On the 18th June, 1878, he filed his application for invalid pension, alleging as the basis of his claim that at Kansas City, Mo., in October, 1864, he was ruptured in the right side by lifting a box of ammunition. After full investigation the claim was rejected in 1880, upon the ground of inability of claimant to furnish evidence of origin or treatment for alleged disability while in the service, or to establish existence of disability at date of discharge or since until 1871. This action of the Commissioner was clearly correct. It is shown by two witnesses, J. M. Middleton and Dr. Hays, that the claimant admitted to them, in 1873, that he was ruptured after his discharge while at work in *his coal bank*. He stated to the witnesses that the injury was received "*in taking a stone off a coal bank.*"

The papers do not disclose any case of merit, and your committee recommend that the bill be indefinitely postponed by the Senate.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1162.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 7830.]

The Committee on Pensions, to whom was referred House bill 2298, granting a pension to Mrs. Mary A. Greene, widow of the late Commander S. Dana Greene, have examined the same, and report unfavorably, and recommend the indefinite postponement of the bill.

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A minority of the committee, through Mr. Blair, recommend the passage of the bill, and request the printing of the following documents relevant to this case:

[Extracts from House Report 2298, Forty-eighth Congress, first session.]

It appears that the petitioner is the widow of Commander Samuel Dana Greene, U. S. Navy, recently deceased.

Commander Greene entered the Navy September 21, 1855, and was actively employed until the time of his death, with the exception of eleven months On January 23, 1862, Commander Greene, then a lieutenant, was ordered to the Monitor, which was at that time being prepared for service at Hampton Roads. Prior to that date he had interested himself in the vessel, and thoroughly examined her construction and design, and notwithstanding the many gloomy predictions of naval officers and officers of the merchant marine as to the great probability of her sinking at sea, he volunteered to go in her, and at the request of Lieutenant (now Admiral) Worden, her commander, was ordered as executive officer. From the date of his orders he applied himself unremittingly and intelligently to the study of her peculiar qualities and to her fitting and equipment. He remained in the Monitor throughout her whole career, taking part in the engagement at Hampton Roads with the Merrimac on the 9th of March, 1862, and in the attack upon Drury's Bluff, in the James River, on the 15th of May, and only left the ship when she sank under him at sea off Cape Hatteras, on December 31, 1862. Throughout the whole history of the Monitor he exhibited the highest qualities of professional skill and courage, especially during the fight with the Merrimac, when, according to the statement of Lieutenant Worden, he had charge of the turret, and handled the guns with great courage, coolness, and skill.

Lieutenant Worden also states that "throughout the engagement, as in the equipment of the vessel and on her passage to Hampton Roads, he exhibited an earnest devotion to duty unsurpassed in my experience."

The importance of the part borne by the Monitor in this action was recognized by Congress in passing a vote of thanks to Lieutenant Worden, and advancing him to a higher grade. Owing to the wound and subsequent illness of the commanding officer no report was made of the fight until a long time afterward. To this fact it was doubtless due that no recognition was ever given to the services of Lieutenant Greene on that occasion, as was done in the case of Lieutenant Thornton, the executive officer of the Kearsarge, after her engagement with the Alabama, in accordance with the precedent in similar cases in the war of 1812. The services of the Monitor on that memorable day were at least as important as those of the Kearsarge in her engagement with the Alabama, and the captains in the two cases were similarly re-

warded. Lieutenant Greene, however, to the day of his death failed to receive from the Government any reward in any shape for his distinguished services, although his case was more deserving than that of other executive officers, in that when his commander was wounded he succeeded to the command and retained it till the close of the action.

The exceptional character of the engagement, to the success of which the conduct and skill of Lieutenant Greene contributed in such an eminent degree, marks his case, as one deserving exceptional treatment. It may be added that throughout his whole career he bore a high reputation for courage, professional skill, and untiring zeal in the performance of his duties, while his private life was above reproach, and his society sought for in the charming circle of his friends.

It appears further that the father of the petitioner, Maj. Jacob Babbitt, of the Seventh Rhode Island Volunteers, was killed in action at the battle of Fredericksburg on December 13, 1862, and that the death of Commander Greene leaves her in circumstances of great want and destitution, with two minor children of her late husband dependent on her for support.

Your committee may mention that never, perhaps, has a claim come before Congress with such indorsements. The petition of this lady comes before your committee with the cordial indorsement of the Admiral, Vice-Admiral, and twenty-two rear-admirals of the Navy. He was a man universally esteemed by his brother officers of all ranks, and around his bereaved widow their prayers and best wishes cluster.

In this fight with the Merrimac, Lieutenant Greene had hardly attained his majority. His patriotic mother gave him her parting blessing, scarcely expecting him to survive the perilous voyage he was undertaking. He had no time to write to her till after the battle, for he stepped from the terrors of the ocean to the terrible storm of this engagement. Four days afterward, however, he wrote a long and graphic description of his voyage and of the engagement, from which your committee copy and condense the following extracts.* On Thursday, the 6th of March, 1862, they started down New York Harbor in tow of the steamer Seth Low. On Friday, the 7th, a storm was encountered, and from that time until Monday at 7 p. m., eighty-five hours, he was in constant devotion to his duty without sleep or rest. He had outlived two tremendous storms, and had arrived just in time, and without a moment's rest, to fight the greatest naval battle in history. In these eighty-five hours he says he thought he had lived ten good years.

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*Naval history of Commander Greene.*

Samuel Dana Greene was appointed an acting midshipman in the Navy September 21, 1855, and graduated at the Naval Academy, June 9, 1859. Was warranted as a midshipman from June 9, 1859, and ordered to the Hartford the same day. September 18, 1861, he was commissioned as a lieutenant from August 31, 1861. December 5, 1861, he was detached from the Hartford and granted two weeks' leave of absence. January 23, 1862, was ordered to the Monitor as executive officer, was attached to that vessel during the action with the Merrimac, March 9, 1862, and in the engagement at Sewell's Point, May 9 or 10, 1862, also in the fight at Fort Darling, James River, May 15, 1862. January 5, 1863, was ordered to the Florida—Monitor lost. September 25, 1863, was detached from the Florida and placed on waiting orders. October 31, 1863, was ordered to special duty at New York. February 10, 1864, detached and ordered to the Iroquois. October 3, 1865, detached and placed on waiting orders. October 7, 1865, was promoted to the grade of lieutenant-commander from August 11, 1865. October 17, 1865, was ordered to duty at the Naval Academy. September 30, 1868, was detached and ordered to the Ossipee; was transferred to the Saranac, and was detached from that vessel April 21, 1870, and ordered to command the Saginaw. January 19, 1871, was detached and ordered to command the Nyack. March 23, 1871, was detached from the Pacific fleet, and ordered to duty at the Naval Academy 1st May. December 12, 1872, was promoted to the grade of commander. December 10, 1874, was detached from the Naval Academy and ordered to command the Juniata. September 7, 1876, was transferred to the command of the Monongahela. July 24, 1877, detached and placed on waiting orders. September 15, 1877, was ordered to duty at the Naval Academy. April 1, 1882, was detached and placed on waiting orders. April 10, 1882, ordered to special duty at Washington, D. C. July 14, 1882, detached and ordered to command the Dispatch, 15th instant. April 23, 1884, was detached and ordered to duty at the navy-yard, Portsmouth, N. H. He died at the navy-yard, Portsmouth, N. H., on the 11th of December, 1884.

Correct, as taken from the records of the Navy Department.

JNO. W. HOGG,
*Chief Clerk.*

NAVY DEPARTMENT, *January* 8, 1885.

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* Omitted, and entire letter published elsewhere.

No. 127.] UNITED STATES NAVY-YARD, PORTSMOUTH, N. H.,
*Commandant's Office, December* 12, 1884.

SIR: It becomes my painful duty to report to the Department the death of Commander S. Dana Greene, U. S. N., equipment office, at this station, which occurred on the evening of the 11th instant.

For the past few days he had been suffering from insomnia, and when it was reported last evening that he was missing from his quarters, a search was instituted, which resulted in the finding of his body in one of the wings of the Franklin ship-house.

The report of the medical officer is herewith inclosed.

I am, sir, very respectfully, your obedient servant,

P. C. JOHNSON,
*Commodore, Commandant.*

Hon. WM. E. CHANDLER,
*Secretary of the Navy, Washington, D. C.*

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No. 311.] UNITED STATES NAVAL HOSPITAL,
*Portsmouth, N. H., December* 12, 1884.

SIR: I have to report that Commander S. Dana Greene, U. S. N., serving under your command as equipment officer at the navy-yard, came to his death on the evening of the 11th instant by the firing of a pistol-ball through his head by his own hand.

Very respectfully,

A. S. OBERLY,
*Medical Inspector.*

Commodore P. C. JOHNSON, U. S. N.,
*Commandant Navy-Yard, Portsmouth, N. H.*

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*Certificate of death.*

I hereby certify that S. Dana Greene, who was a commander in the United States Navy, while attached to the navy-yard at Portsmouth, N. H., and holding the rank above mentioned, departed this life at the navy-yard at Portsmouth, N. H., on the 11th day of December, in the year 1884, and that he died of suicidium, as set forth in the record of his case, as follows:

About 8 p. m., on the 11th day of December, 1884, the deceased was found dead, lying on a pile of trunnels on the northeast corner of the second floor of the Franklin ship-house, with a wound through his head, made by a 42-caliber cartridge of a Navy revolver, which he was holding in the right hand, with the thumb on the trigger. The ball entered the skull on the right side, three inches above the meatus auditorious, and in a line an inch in front thereof, and made its exit on the left side, one inch behind the ear, and on a level with the upper lobe. The deceased lately seemed to labor under mental trouble, growing out of an article to be published in the Century about the engagement between the Confederate iron-clad Merrimac and the Monitor, from which he felt that his reputation as an officer was affected; and as the mental aberration which led to his death was due to an incident of the service, there is fair evidence that the death or suicide had a line-of-duty origin.

A. S. OBERLY,
*Medical Inspector, U. S. N.*

The above-named S. Dana Greene, deceased, was born at Cumberland, in the State of Maryland; about 44½ years of age; about 5 feet 11 inches high: dark complexion; hazel eyes; black hair; and entered the United States naval service at Annapolis, Md., on the 21st day of September, in the year 1855.

P. C. JOHNSON,
*Commandant.*

Approved, and forwarded to Bureau of Medicine and Surgery.

P. C. JOHNSON,
*Commodore, Commandant.*

A correct copy.

F. M. GUNNELL,
*Surgeon-General, U. S. N.*

The minority desire to preserve the following letter from Commander Greene to his mother, not alone by reason of its pertinency to the case, but for its historic value:

UNITED STATES STEAMER MONITOR,
*Hampton Roads, March* 14, 1862.

MY DEAR MOTHER: I commence this now, but I don't know when I shall finish, as I have to write it at odd moments, when I can find a few minutes' rest. When I bid Charlie good-night on Wednesday, the 5th, I confidently expected to see you the next day, as I then thought it would be impossible to finish our repairs on Thursday, but the mechanics worked all night, and at 11 a. m. on Thursday we started down the harbor, in company with the gunboats Sachem and Currituck. We went along very nicely, and when we arrived at Governor's Island the steamer Seth Low came alongside and took us in tow. We went out past the Narrows with a light wind from the west and very smooth water. The weather continued the same all Thursday night. I turned out at 6 o'clock on Friday morning, and from that time until Monday at 7 p. m. I think I lived ten good years. About noon the wind freshened and the sea was quite rough. In the p. m. the sea was breaking over our decks at a great rate, and coming in our hawse-pipe forward in perfect floods. Our berth-deck hatch leaked in spite of all we could do, and the water came down under the tower like a waterfall. It would strike the pilot-house and go over the tower in most beautiful curves. The water came through the narrow eye-holes in the pilot-house with such force as to knock the helmsman completely around from the wheel. At 4 p. m. the water had gone down our smoke-stacks and blowers to such an extent that the blowers gave out, and the engine-room was filled with gas.

Then, mother, occurred a scene I shall never forget. Our engineers behaved like heroes, every one of them. They fought with the gas, endeavoring to get the blowers to work, until they dropped apparently dead. I was nearly suffocated with the gas, but got on deck, after every one had left the engine-room, just in time to save myself. Three firemen were in the same condition as the engineers. Then times looked rather blue. We had no fear as long as the engine could be kept going to pump out the water, but when that stopped, the water increased rapidly. I immediately rigged the hand-pump on the berth-deck, but as we were obliged to lead the hose out over the tower, there was not force enough in the pump to throw water out. Our only resource now was to bail, and that was useless, as we had to pass the buckets up through the tower, which made it a very long operation. What to do now we did not know. We had done all in our power, and must let things take their own course. Fortunately the wind was off shore, so we hailed the tug-boat, and told them to steer directly for the shore, in order to get in smooth water.

At 8 p. m. we managed to get the engines to go, and everything comparatively quiet again. The captain had been up nearly all the previous night, and as we did not like to leave the deck without one of us being there, I told him I would keep the watch from 8 to 12, he take it from 12 to 4, and I would relieve him from 4 to 8. Well, the first watch passed off very nicely; smooth sea, clear sky, the moon out, and the old tank going along 5 and 6 knots very nicely. All I had to do was to keep awake and think over the narrow escape we had had in the afternoon. At 12 o'clock things looked so favorable that I told the captain he need not turn out; I would lie down with my clothes on, and if anything happened I would turn out and attend to it. He said, "Very well," and I went to my room and hoped to get a little nap. I had scarcely got to my bunk when I was startled by the most infernal noise I had ever heard. The Merrimac's firing last Sunday was music to it. We were just passing a shoal, and the sea suddenly became rough and right ahead. It came up with tremendous force through our anchor-well and forced the air through our hawse-pipe where the chain comes, and then the water would rush through in a perfect stream, clear to our berth deck, over the ward-room table. The noise resembled the death groans of twenty men, and was the most dismal, awful sound I have ever heard. Of course the captain and myself were on our feet in a moment, and endeavored to stop the hawse-pipe. We succeeded partially, but now the water began to come down our blowers again, and we feared the same accident that happened in the afternoon. We tried to hail the tug-boat, but the wind being dead ahead they could not hear us, and we had no way of signaling them, as the steam whistle which father had recommended had not been put on.

We began then to think the Monitor would never see daylight. We watched carefully every drop of water that went down the blowers, and sent continually to ask the fireman how they were going. His only answer was, "Slowly," but could not be kept going much longer unless the water could be kept, be stopped from coming down. The sea was washing completely over our decks, and it was dangerous for a man to go on them; so we could do nothing to the blowers. In the midst of all this our wheel-ropes jumped off the steering-wheel (owing to the pitching of the ship), and became jammed. She now began to sheer about at an awful rate, and we thought

our hawser would certainly part. Fortunately it was new, and held on well. In the course of half an hour we freed our wheel-ropes, and now the blowers were the only difficulty. About 3 o'clock Saturday a. m. the sea became a little smoother, though still rough, and going down our blowers somewhat. The never-failing answer from the engine room, "Blowers going slowly, but can't hold out much longer." From 4 a. m. till daylight was the longest hour and a half I ever spent. I certainly thought old Sol had stopped in China; at last, however, we could make the tug-boat understand to go nearer inshore to get in smooth water, which we did about 8 a. m. Things again were a little quiet, but everything wet and uncomfortable. The decks and air-ports leaked, and the water still came down the hatches and under the tower. I was busy all day making out my station bills and attending to different things which constantly required my attention.

At 3 p. m. we parted our hawser, but fortunately it was quite smooth, and we secured it without difficulty.

At 4 p. m. we passed Cape Henry, and heard heavy firing in the direction of Fortress Monroe; and as we approached it increased, and we immediately cleared ship for action. When about half way between Fortress Monroe and Cape Henry we spoke a pilot-boat. He told us the Cumberland was sunk and the Congress was on fire, and surrendered to the Merrimac. We did not credit it at first, but as we approached Hampton Roads we could see the fine old Congress burning brightly, and we knew that it must be so. Sadly indeed did we feel to think those two fine old vessels had gone to their last homes with so many of their brave crews. Our hearts were very full, and we vowed vengeance to the Merrimac if it should ever be our lot to fall in with her.

At 9 p. m. we anchored near the frigate Roanoke, the flag-ship, Captain Marston (the major's brother). Captain Worden immediately went on board, and received orders to proceed to Newport News and protect the Minnesota (which was aground) from the Merrimac. We got under way, and reached the Minnesota at 11 p. m. I went on board in our cutter, and asked the captain what his prospects were of getting off. He said he should try to get afloat at 2 a. m., when it was high water. I asked him if we could render him any assistance, to which he replied "No." I then told him we should do all in our power to protect him from the attacks of the Merrimac. He thanked me kindly, and wished me success.

Just as I got back to the Monitor, the Congress blew up, and certainly a grander sight was never seen, but it went straight to the marrow of our bones. Not a word was said, but deep did each man think and wish he was by the side of the Merrimac. At 1 a. m. we anchored near the Minnesota. The captain and myself remained on deck waiting for the Merrimac.

At 3 a. m. we thought the Minnesota was afloat and coming down to us, so we got under way as soon as possible and stood out of the channel. After backing and filling for about an hour we found we were mistaken, and anchored again. At daylight we discovered the Merrimac at anchor, with several other vessels, under Sewell's Point. We immediately made every preparation for battle.

At 8 a. m. on Sunday the Merrimac got under way, accompanied by several steamers, and started direct for the Minnesota. By this time our anchor was up, the men at quarters, and everything ready for action. As the Merrimac came down the captain passed the word to commence firing. I triced up the port, ran out the gun, and fired the first gun. Then began the great battle between the Monitor and Merrimac. Now mark the condition our men and officers were in. Since Friday evening, forty-eight hours, they had no rest and very little food, as we could not conveniently cook. They had been hard at work all night, had nothing to eat for breakfast except hard bread, and were thoroughly worn out. As for myself I had not slept a wink for fifty-one hours, and had been on my feet almost constantly. But after the first gun was fired we forgot all fatigue and hard work, and everything else, and went to work fighting as hard as men ever fought. We loaded and fired as fast as we could. I pointed and fired the guns myself. Every shot I would ask the captain the effect, and the majority of them were encouraging. The captain was in the pilot-house directing the movements of the vessel. Acting Master Stodder was at the wheel which turns the tower, but as he could not manage it, he was relieved by Stimers. The speaking-trumpet from the tower to the pilot-house was broken, so we passed the word from the captain to myself on the berth-deck by Paymaster Keeler and Captain's Clerk Toffey. Five times during the engagement we touched each other, and each time I fired a gun at her, and I will vouch that the 168 pounds penetrated her sides. Once she tried to run us down with her iron prow but did no damage. After fighting for two hours we hauled off for half an hour to hoist our shot in the tower. At it we went again as hard as we could. The shot, shell, grape, canister, musket and rifle balls flew about us in every direction, but did no damage. Our tower was struck several times, and although the noise was pretty loud it did not affect us any. Stodder and one of the men were carelessly leaning against the tower when a shot struck it directly opposite to them, and disabled them for an hour or two. At about

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1163.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 926.]

*The Committee on Pensions, to whom was referred the bill (S. 926) granting a pension to Levi H. Naron, have examined the same, and report as follows:*

That this case was before the Senate at the first session of the Forty-seventh Congress, when the committee carefully considered the same, and reported upon it adversely. It is again before the committee on the same state of facts, no new or additional evidence having been produced, and the committee, after a re-examination of the claim, adhere to their former recommendation and report, as follows:

*The Committee on Pensions, to whom was referred the bill (S. 1118) granting a pension to Levi H. Naron, having examined the same, make the following report:*

That the claimant on the 12th day of April, 1880, filed his application for invalid pension, stating as the ground of his claim that "While guiding a detachment of General B. H. Grierson's forces while on his raid from Memphis to Vicksburg, we were ambuscaded on a bridge about three miles east of Ellistown, where my horse fell with me, and I sustained injury to my left hip, which continues to disable me, and for which injury I claim a pension." It appears from the report of the examining surgeon, made the 21st September, 1881, that the claimant was then suffering with an "injury to left hip," which was rated at one-fourth. The claimant was not an enlisted soldier. He had previously performed special service as guide to Generals Rosecrans and Dodge, for which he was paid special wages. No evidence was produced other than his own statement as to the date and origin of his alleged injury or disability. There is no statement from any officer or private of General Grierson's command supporting or corroborating the claimant's account of the injury alleged to have been received by him. The Commissioner rejected the claim upon two grounds: First, that the claimant was simply a civilian employé; and, secondly, because there was no evidence to support the claim or to show that the alleged injury actually occurred in the service. This action of the Commissioner was clearly correct. No additional evidence has been brought before your committee, and they accordingly recommend that the bill be not passed, and that it be indefinitely postponed by the Senate.

Your committee recommend the indefinite postponement of the bill by the Senate.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1164.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 2100.]

*The Committee on Pensions, to whom was referred the bill (H. R. 2100) granting a pension to Mary Allen, have examined the same, and report as follows:*

That Mary Allen is the widow of John Allen, who enlisted August 12, 1862, in the Seventy-second Regiment Missouri Enrolled Militia, and died from fever December 23, 1863. Application for pension was made in 1878, but rejected by the Pension Department under par. 3, sec. 4693, which provides "that no claim of a State militiaman or non-enlisted person, on account of disability, &c., * * * shall be valid unless prosecuted to a successful issue prior to July 4, 1874."

It is alleged that the fever of which the soldier died was contracted in the service, but it appears it was in the State service and not in that of the United States. It does not even appear that the soldier's regiment or company was under the command of United States officers, or that it was co-operating with the United States forces when the alleged disease was contracted. There is no law applicable to the case, and it is not so exceptional in its character as to warrant the committee in recommending special relief. We accordingly report the bill back to the Senate, with the recommendation that it be indefinitely postponed.

48TH CONGRESS, 2d Session. | SENATE. | REPORT. No. 1165

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 6946.]

*The Committee on Pensions, to which was referred the bill (H. R. 6946) for the relief of Margaret McCarty, has examined the same, and reports:*

That the Commissioner of Pensions, in his letter transmitting the record and papers in this case to the committee, under date of January 30, 1885, states that "The widow was recently pensioned at $8 per month, from September 5, 1882, the date of filing her application."

As this action of the Commissioner of Pensions renders legislation in the case unnecessary, the bill is reported to the Senate with a recommendation that it be indefinitely postponed.

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DOES NOT CIRCULATE

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1166.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 1653.]

*The Committee on Pensions, to whom was referred the bill (S. 1653) granting a pension to John H. Crumb, have examined the same, and report:*

That this claim has not yet been rejected by the Pension Office, but is awaiting adjudication there, and we see no reason why it cannot be settled in the usual way under the general law.

Your committee therefore recommend that the bill be indefinitely postponed.

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DOES NOT CIRCULATE

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1167.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 2161.]

*The Committee on Pensions, to which was referred the bill (S. 2161) granting a pension to Harvey Crane, has examined the same, and reports:*

That the said Harvey Crane is the father of Ira J. Crane, late private in Company C, Eighty-sixth Regiment Indiana Volunteers, who died in the service at Nashville, Tenn., January 12, 1863. The father applied for pension June 14, 1880. The claim was rejected on the ground that—

> It is in evidence that applicant was not dependent upon the soldier's contributions for adequate support at the date of said soldier's death; hence, the claim has been rejected on the ground of non-dependence.

This is the statement of the Commissioner of Pensions in his letter to the chairman of the committee transmitting the papers in the case; and nothing appears in the case showing that this action of the Pension Office was not correct. The claimant does not even state in his application for a pension that he was in any degree dependent on contributions from his son for his support; nor does the petition, signed by a large number of citizens of Fountain County, Indiana, praying for a pension for claimant by special act of Congress, and referred to your committee, state any degree of dependence of the father on the contributions of the son.

The bill is therefore reported adversely, with a recommendation that it be indefinitely postponed.

DOES NOT CIRCULATE

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1168.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1084.]

*The Committee on Pensions, to whom was referred the bill (H. R. 1084) granting a pension to Dorothea Bothner, have examined the same, and report as follows:*

The material facts of this case are correctly set forth in the report of the House committee, which is adopted as follows:

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1084) granting a pension to Dorothea Bothner, having considered the same, beg leave to submit the following report:*

Gustavus Bothner, husband of the petitioner, was mustered into the service of the United States as second lieutenant in Company C, Thirty-eighth Regiment New York Volunteers, December 12, 1862, and was discharged February 16, 1863. His death occurred May 12, 1874. At the battle of Fredericksburg, Va., he received a gunshot wound in the left shoulder, and it is so reported by the Surgeon-General of the United States Army. For this disability he was pensioned, April 11, 1873, at $7.50 per month, to date from February 17, 1863. The widow filed her application for pension June 30, 1874, and it was rejected by the Pension Office, on the ground that the immediate cause of death—phthisis pulmonalis—was not the rusult of his wound.

Dr. B. A. Mylins, the soldier's physician, testifies as follows:

"That he attended soldier, professionally, for the last five years for neuralgia of the left shoulder and affection of the left lung, both caused entirely by a gunshot wound through the cord of the neck, the ball coming out at the left shoulder."

The same witness testifies again, May 6, 1874, on soldier's application for increase—

"That he is physician to the pensioner, and has been for eight years. He was suffering from gunshot wound of left shoulder. The shock to the muscles partly paralyzed the arm and side, causing a sluggish flow of blood through the lung; the cords of the lung fastening under the shoulder gradually became diseased, and finally worked into the lung, producing hemorrhage."

The same witness, who is an M. D., residing at 635 Lexington avenue, New York, testifies April 22, 1875:

"That he has been the family physician of the soldier from 1866 to the date of his death. At the time of deponent's first visit to soldier he found him suffering with pain in the left lung and lameness in the shoulder. Deponent made a number of careful examinations, and the result showed a wound from a gunshot, which entered the neck, grazed the cervical vertebræ, then passing down entered the cavity of the thorax, injuring the left lung, and finally came out between the ribs near the spinal column. The injury of the nerves caused partial loss of power, and the injury of the lung caused disease of that organ, evidently due to the gunshot wound. The disease of the lungs progressed slowly, but was incurable, and was finally the cause of death, which occurred from disease of the lungs, after eight years of regular professional treatment. Deponent can safely pronounce soldier's death to have been caused by injury to the lungs from gunshot wound, of which he died May 12, 1874."

The examining surgeon certifies to the good standing of Dr. Mylins as a physician.

Your committee are of the opinion, from the evidence adduced, that the soldier's death was plainly traceable to the wound received in the service. It shows that he suffered continuously from the time of discharge to death, and that the lung disease had its origin from that gunshot wound. Your committee, therefore, recommend the passage of H. R. 1084, granting the relief asked for by the petitioner.

In addition to the foregoing, it appears that upon the last examination of the husband by a board of examining surgeons at New York on April 1, 1874, they certified as follows:

Still suffering from gunshot wound (describing the wound). The disability originates entirely from the injury or disease on account of which he was originally pensioned, as follows: He has phthisis pulmonalis, third stage; is hectic; emaciated; has frequent attacks of hæmoptysis. His previous history is good. His father was 60 when he died of fever. Mother and six brothers and two sisters are living and healthy. While we are unable to state positively the connection between the wound and the disease of the lungs, we incline the doubt in his favor. He is confined to his room. Disability first grade and permanent.

It is thus fairly established that the gunshot wound was the remote, if not direct, cause of the soldier's death, and your committee report back the bill to the Senate, with the recommendation that it do pass.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1169.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 2547.]

*The Committee on Pensions, to whom was referred the bill (S. 2547) granting an increase of pension to Mrs. Frances L. Thomas, widow of Maj. Gen. George H. Thomas, have examined the same, and report as follows:*

The brilliant military record and distinguished public services of the late Maj. Gen. George H. Thomas are well known to the country which he served so long and so devotedly. The people regarded him as one of the best and purest public men the nation has produced, as well as one of the greatest generals engaged in the late war.

When General Thomas died, on March 28, 1870, memorial meetings were held throughout the country, and the Congress of the United States, State legislatures, governors of States, civic corporations, and associations of soldiers and citizens gave public expression of the nation's grief and of the people's appreciation of his character and services.

In the joint resolutions passed at that time Congress fittingly recognized the value of General Thomas's public services and the worth of his character, as the following paragraphs show:

That the Senate and House of Representatives have heard with deep regret of the sudden decease of Maj.-Gen. George H. Thomas, endeared to the country by a series of unbroken, patriotic services during a period of thirty years.

That his distinguished career in the defense of his country against foreign and domestic enemies, his never-faltering faith and zeal in the maintenance of the Union and the integrity of the Government, and his stern execution of every trust confided to him, constitute a record in life made memorable in death.

The following extract from the general order announcing his death, issued by General W. T. Sherman, briefly summarizes General Thomas's distinguished military career:

There is no need to turn to the archives to search for his history, for it is recorded in almost every page during the past ten years; but his classmate and comrade owes him a personal tribute, in which he knows every member of the Army shares. General Thomas entered the Military Academy in the class of 1836; graduated in 1840, and was commissioned as a second lieutenant, Third Artillery, and sent to Florida. He served with his regiment continuously until December 24, 1853, when he became a captain, having been particularly distinguished at Monterey and Buena Vista, Mexico. On the 12th of May, 1855, he was appointed to the Second Cavalry as major, and served with that regiment continuously until he became its colonel, on the 3d of May, 1861. The great civil war found him at his post, true and firm, amidst the terrible pressure he had encountered by reason of his birth place, Virginia; and President Lincoln commissioned him as a brigadier general of volunteers, and sent him to Kentucky. There, too, his services were constant and eminent in the highest degree. He won the first battle in the West, at Mill Spring, Ky., and, from first to last, without a day's

or an hour's intermission, he was at his post of duty, rising steadily and irresistibly through all the grades to the one he held as major-general of the Regular Army at the time of his death. At Shiloh, Corinth, Perryville, Stone River, Chickamanga, Chattanooga, Atlanta, and Nashville he fulfilled the proudest hopes of his ardent friends, and at the close of the war General George H. Thomas stood in the very front rank of our war generals.

The General has nkown General Thomas intimately since they sat as boys o same bench, and the quality in him which he holds up for the admiration and example of the young is his complete and entire devotion to duty. Though sent to Florida, to Mexico, to Texas, to Arizona, when duty there was absolute banishment, he went cheerfully, and never asked a personal favor, exemption, or leave of absence. In battle he never wavered. Firm and full of faith in his cause, he knew it would prevail; and he never sought advancement of rank or honor at the expense of any one. Whatever he earned of these were his own, and no one disputes his fame. The very impersonation of honesty, integrity, and honor, he will stand to us as the *ideal* of the soldier and gentleman.

Though he leaves no child to bear his name, the old Army of the Cumberland, numbered by tens of thousands, called him father, and will weep for him in tears of manly grief.

His wife, who cheered him with her messages of love in the darkest hours of war, will mourn him now in sadness, chastened by the sympathy of a whole country.

The records of the War Department show that General Thomas was in constant service for thirty years, and in that time took but one leave of absence. This was asked to enable him to come East to recover from a wound received in an Indian skirmish, and was relinquished the day the flag went down at Sumter, and less than forty-eight hours after the first shot was fired.

General Thomas never sought promotion, and there are many who believe that, had his services been suitably recognized during the early part of the war, opportunities would have been presented to him of rendering his country still greater service and of adding to his own fame. The people of this country understand that it was solely by reason of his remarkable abilities, without the influence of powerful friends, that General Thomas attained a position second to that of no officer of the Army as a military leader and as a man. His character and his career will stand in history as representing all that is noblest and best in the life of this great nation.

Mrs. Thomas is now drawing a pension of $30 per month, which is inadequate to her support, and the bill proposes to increase this to $2,000 per annum. Although a pension of this amount has only been granted by Congress in one instance, in the case of the widow of Admiral Farragut, excepting the larger pensions to the widows of deceased Presidents, the committee believe that the widow of George H. Thomas should receive the greatest possible consideration at the hands of Congress, and that the unusual and exceptional allowance proposed in her case is a fitting and very appropriate recognition of the nation's indebtedness to her most distinguished husband. As the late President Garfield said, "There was but one George H. Thomas in all the world."

Considering this an exceptional case, which stands wholly by itself, your committee recommend the passage of the bill, with an amendment reducing the amount to the sum of $100 per month.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1170.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 1633.]

*The Committee on Pensions, to whom was referred the bill (S. 1633) granting a pension to James Bond, have examined the same, and report as follows:*

It appears that this case was forwarded to the House Committee on Invalid Pensions last session by the Commissioner of Pensions, who made the following statement of the case in his letter of transmittal:

I have the honor to call the attention of the honorable Committee on Invalid Pensions, House of Representatives, to the accompanying claim to pension under the general pension laws of James Bond, late of Company B, Fifty-second Ohio Volunteers, No. 54896, rejected by this Bureau, under date of August 24, 1881, on the ground that the disability upon which the claim was based was not contracted in the line of duty, and most respectfully ask your attention to the same (under a resolution of Congress passed May 29, 1830), and suggest the passage of a special act granting him a pension from the date of his discharge, September 2, 1864, the amount of which to be governed by the laws now on the statutes.

By a reference to the papers it will be seen that the claim is for the loss of the left arm and the loss of sight of left eye from the explosion of a shell at Chickamauga, Ga., while out on a pass from the brigade commander visiting the battle-field at said place, in the month of April, 1864.

It is shown by the testimony of Lieut. Col. Charles W. Clancy, who was Bond's captain, and assisted in the amputation of his arm, that the regiment was encamped near the battle-ground, and that Bond and four comrades obtained a pass from the brigade commander to procure boards for quarters, and to go through the battle-ground of Chickamauga; that while going over the field one of Bond's comrades handed him a small bombshell, which exploded in his hands; that as a result of his injuries his left arm was amputated at the shoulder, his left eye so badly injured as to lose his sight, and his right eye injured somewhat. Colonel Clancy testified that the injury was received in the line of duty, that it was accidental, and that it was no fault of the soldier's.

The Pension Office officials appear to have been divided in opinion as to whether this injury was received in the line of duty. The examiner who briefed the case said in a note on this point:

It certainly is a *pensionable incident* of the war, for if he had not been in the service he would not have been injured in this way; and he was not *necessarily* out of line of duty, while the captain testifies he was *in* line of duty, being on the battle-field by permission of superior officer.

Another examiner submitted a long statement in support of his opinion that the claim was justly pensionable under existing laws, be-

cause the claimant's terrible disability is a pensionable incident of his services in the Army.

Still another examiner, in an opinion given at the request of the chief of his division, says:

The question at issue is as to line of duty. I regard it as a delicate one to decide, and one susceptible of different conclusions. It seems desirable in such cases, where the equities of the claim are recognized, that we should construe the law liberally.

It is shown that the claimant was visiting the battle-ground with proper permission, and that fact suggests that he was in line of duty at the time. If he had received the same injury within the limits of the camp, we could not hold that he was *not* in line of duty, and yet he was to all intents and purposes as much in line of duty as if within the confines of the camp at the time.

The whole matter may be condensed and covered in this conclusion—the wound was accidental and was a resulting incident of his service. If the circumstances under which the injury was received are truthfully stated, in my opinion we have no impregnable or even tenable ground for denying the pension. If we have not the facts clearly presented, we should then endeavor to obtain them before finally deciding the question involved. The Deputy Commissioner has already decided the action in the case adverse to the legal right, while admitting the equity of the claim.

In my judgment, if the claimant has now an equitable title, he has also a legal one, although the claim admits of argument on that point.

When the case was submitted to the Deputy Commissioner, another official said:

The record shows the explosion was *accidental*, and contains nothing to show that claimant was out of the line of his duty. It appears to have been incidental to the service.

The case was finally passed upon by the Commissioner, who says in his opinion:

In my opinion the action then taken (referring to the rejection of the claim) was correct, because every soldier is held to the exercise of common sense and common prudence. An unexploded shell upon a deserted battle-field is not a thing to be carelessly handled, or handled at all, and if an old soldier of two years' service, well knowing the danger he incurred, picked up an unexploded shell, he did it at his own peril and own personal risk. The only safe thing to handle under such circumstances would be an exploded shell, or rather the fragments of one. Under some circumstances a soldier, picking up an unexploded shell, might be pensionable if followed by the results as detailed in this case, *i. e.*, were the shell to fall in the midst of his comrades, and in an effort to save life he should pick it up and in trying to throw it away it should explode, as this did, he would be given a pension by me. But when, as in this case, away from camp and far off from comrades, out of idle curiosity and in the face of what he knew to be the risk he ran, he takes it up and either by percussion or other act ignites the fuse, he certainly is not in line of duty. * * * In my opinion the first action of the office was correct, and should be adhered to.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1171.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 1416.]

*The Committee on Pensions, to whom was referred the bill (S. 1416) granting a pension to Mrs. Charlotte Hackett, have examined the same, and report:*

That this bill proposes to pension Mrs. Charlotte Hackett as the dependent mother of Samuel F. Hackett, late private in Company E, Second Regiment Wisconsin Volunteers, who served from April 20, 1861, until July 2, 1863, when he was killed in battle. The claim was rejected by the Pension Office, in accordance with the statute, because the mother was not dependent upon the soldier's contributions for adequate support during the year in which the soldier was killed; but the Commissioner says in his letter to the committee:

> As the claim was not filed until 1880, when said parents had become aged and unable to labor, there is no question as to the honesty of claimant's intent in filing the same, but there is no provision of law therefor.

It appears from the evidence on file that when the war broke out Mr. Hackett had three grown sons and four young children; that the boys worked with him and he received their wages; that the boys all went into the Army; and that, though the father was able to make a living as a carpenter at the time of the soldier's death, with the assistance of the eldest son, who did not enlist until the latter part of the war, he was then fifty-seven years old, and has since become disabled. The Commissioner, in his note ordering the rejection of the claim, admits that the mother would probably have been dependent upon the soldier had he lived.

Under these circumstances, and taking into consideration the fact that Mrs. Hackett gave three sons to the Army and is now in need of a pension for support, we recommend the passage of the accompanying bill.

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48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1172.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 7659.]

*The Committee on Pensions, to which was referred the bill (H. R. 7659) gartning a pension to Mrs. Emily L. Alvord, having examined the same, submits the following report:*

The circumstances of this case are set forth in the report of the House Committee on Invalid Pensions as follows:

That General Alvord was an officer in the Army of the United States in continuous service for forty-seven years. His military record is most satisfactory and brilliant. He was in the Florida war against the Seminole Indians, was engaged in several skirmishes, and was promoted for his gallant conduct. He was in the war with Mexico, and participated in several engagements, and was twice promoted for his gallant and meritorious conduct in the battles of said war. He was in command as brigadier-general United States Volunteers from 1862 to 1866 in the war with the seceding States, and promoted in the Regular Army for faithful and meritorious services to brevet lieutenant-colonel, and brevet-colonel, and brevet brigadier-general in the United States Army. He was afterward Paymaster-General of the United States Army, and discharged the duties of the office with great ability, giving entire satisfaction, being honest, faithful, and industrious.

He died in 1884, having been on the retired list four years, of disease contracted while in active service in the Army and in the line of his duty, as shown by the certificate of the surgeon of the United States Army, which certificate is appended to this report. He graduated in the Military Academy of the United States; was a scholar of distinction; was assistant professor of mathematics and of natural and experimental philosophy at the United States Military Academy in 1837. He was the author of some valuable books, which honored him. He was a pure and devout Christian, of high honor, a warm and generous friend, and a kind husband and father, as brave as the bravest and as gentle as the gentlest. His widow, the only wife he ever had, his companion for many years and the mother of his children, is old and infirm, with but little money or property and with three children and a very old and helpless maiden sister of her husband to support.

Wherefore they report the bill without amendment, with the opinion that it ought to pass.

I certify that Brig. Gen. Benjamin Alvord, U. S. A., retired, was, at the date of his retirement, suffering from chronic diarrhea, for which he had been repeatedly treated by me during the last two years of his active service. Though for many years, and dating as far in the past as the Mexican war, General Alvord had been frequently compelled to apply for medical treatment for diarrhea, to which he was strongly predisposed, it did not become a permanent and chronic disease until in 1876, and when in the line of his duty as Paymaster-General. At that time and subsequently his health

became so much impaired as to necessitate the daily use of remedies and led to feeble action of the heart, general debility, and organic disease of the kidneys, of which he died.

BASIL NORRIS,
*Surgeon, United States Army.*

SAN FRANCISCO, CAL., *December* 8, 1884.

True copy.

WM. B. ROCHESTER,
*Paymaster-General, United States Army.*

The committee does not feel warranted in favoring the passage of the bill, and therefore recommends that it be indefinitely postponed.

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48TH CONGRESS, 2d Session } SENATE. { REPORT No. 1173.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1885.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 957.]

The Committee on Pensions, to whom was referred the bill (S. 957) granting a pension to Margaret D. Marchand, have examined the same, and report favorably, recommending, with an amendment striking out the word "fifty" and inserting the word "thirty," in the eighth line, the passage of the same. The facts are set forth in the narrative of Mrs. Marchand as follows, and of the witness Thornton as follows:

On this 15th day of May, 1884, before me, Sprigg Harwood, clerk circuit court for Anne Arundel County, personally appeared Margaret D. Marchand, who being duly sworn according to law, deposes and says as follows, to wit:

In the year 1861 my husband, the late Commodore John B. Marchand, then commander, was in command of the steamer James Adger, off Charleston, S. C., engaged in the naval service of the United States Government in the late civil war. At that date he was in robust health and perfect physical condition. He had always been a man of unusually robust constitution, weighing over 200 pounds, and of perfectly regular habits, and from the day of our marriage, to wit, the 11th day of November, 1856, until the date of his taking command of the steamer James Adger, in 1861, have never known him to have any sickness, with the exception of some trivial derangement, of perhaps a day's duration, and never requiring any medical attendance. His habits throughout his entire life were uniformly regular and temperate.

To the best of my knowledge he went upon blockade duty in the year 1861, in his usual health, and came to our home in Baltimore, in 1864, broken down in health and much reduced in flesh, after protracted blockade duty, and after the severe engagements while in command of the U. S. S. Lackawanna in Mobile Bay. At the date of his promotion to the rank of commodore, in the year 1866, for distinguished services, the usual physical examination was waived. Soon after this date symptoms of defective circulation commenced, manifesting itself in the ends of his fingers, they becoming bloodless and livid in color. In 1871 he was a frequent sufferer from violent pains in his chest. In the winter of 1873 and 1874 Commodore Marchand was confined to the house, suffering extremely from the swelling of his feet. In the winter of 1874 and 1875 he had hemorrhages of the lungs; the last of these hemorrhages was the immediate cause of his death. Dr. Mahan, of Pennsylvania, our family physician, who attended Commodore Marchand during the early periods of his sickness, is now deceased. Drs. Dale and Zeigler, who attended him at his death, pronounced his complaint from which death resulted to be heart disease.

My belief is further strengthened by the information of Dr. Ridoute, of Annapolis, Md., that the defective circulation, pains in the chest, and swollen limbs were all symptoms of the heart disease, which resulted in Commodore Marchand's death; and that all these symptons and the disease which resulted in the commodore's death were produced by exposure consequent upon the continuous and excessive duties that he was called upon to perform while in the service of the United States Navy as above stated.

MARGARET D. MARCHAND.

Sworn to and subscribed the day and year first above written before me.
[SEAL.] SPRIGG HARWOOD,
*Clerk Circuit Court for Anne Arundel County.*

On this 15th day of May, before me, Sprigg Harwood, clerk of circuit court for Anne Arundel County, personally appeared Alice P. Thornton, who, being duly sworn according to law, deposes and says:

That she is a sister of the within-named Margaret D. Marchand, and that she has read and carefully examined the affidavit of her said sister hereto appended; that she has personal knowledge of the condition of health and different stages of disease that finally resulted in the death of Commodore Marchand; and also personal knowledge of the statements contained in the annexed affidavit, and that she verily believes the same to be true.

ALICE P. THORNTON.

Sworn and subscribed this 15th day of May, 1884, before me.

[SEAL.] SPRIGG HARWOOD,

*Clerk Circuit Court for Anne Arundel County.*

We append also an account of the service of Commodore Marchand in Mobile Bay:

The morning of the 5th of August, 1864, found Admiral Farragut with his fleet, consisting of the Richmond, Port Royal, Lackawanna, Seminole, Monongahela, Kennebec, Ossipee, Itasca, Oneida, Galena, Brooklyn, Octorara, Metacomet, and lastly the Hartford, the admiral's flag-ship, at the mouth of Mobile Bay. Among the efficient officers who contributed to this important victory was Capt. John B. Marchand,* of the Lackawanna. At fifteen minutes of 6 o'clock the whole fleet was under way, and just one hour afterwards the first gun was fired. The ships above mentioned entered the bay, lashed to each other in pairs, side by side, in order to prevent any confusion in passing the formidable fortifications of the Confederates guarding the entrance to the bay. The Brooklyn and Octorara were in the lead. The Lackawanna, with the Seminole, was in the center of the line of battle. Fort Morgan first opened fire upon the fleet, and the rebel boats, Tennessee, Morgan, Gaines, and Selma, inside of the bay, raked the vessels with shot and shell.

Just around the point of land behind Fort Morgan could be seen three saucy-looking gunboats, and the famous ram Tennessee. The latter was then considered the strongest and most powerful iron-clad ever put afloat—looking like a great turtle, with sloping sides, covered with iron plates six inches in thickness, thoroughly riveted together, and having a formidable iron beak projecting into the water. Her armament consisted of six heavy guns of English make, sending a solid shot weighing 110 pounds irresistibly against everything but the turrets of the monitors.

In addition to these means of resistance, the narrow channel in front of the fort had been lined with torpedoes. These were in the water, anchored to the bottom, and were chiefly in the shape of beer-kegs, filled with powder, from the sides of which projected numerous little tubes containing fulminate which it was expected would be exploded by contact with passing vessels.

Although shot and shell were flying around, none struck the Lackawanna's hull, doing serious injury, until she was within 400 or 500 yards of Fort Morgan, when a heavy elongated shot from the fort passed through the ship's side, killing and wounding sixteen men at the 150-pound rifle, when it carried away two stanchions of the taffrail, passed, through the foremast, and carried away the head of the sheet-cable bits, then, passing through the other side of the ship, fell into the water. Blood and mangled human remains for a time impeded the working of the 150-pounder. The firing of shells from the Union fleet was so continuous that the Confederates were driven away from their guns.

At 8¼ o'clock in the morning the Union fleet had passed beyond the range of the guns of Fort Morgan, when the ram Tennessee was seen approaching. The admiral made signal to the Monongahela, commanded by Captain Strong, as being nearest, to run her down. The vessel was armed with a heavy artificial iron prow, and was, among the wooden vessels, the best adapted to the purpose of executing the admiral's order. At the same time the signal was sent up to the Lackawanna to also attack the Tennessee. The Monongahela first struck the rebel craft angularly, glancing off and doing her no perceptible injury. The Lackawanna was more fortunate, and struck her at right angles to her keel. The concussion was tremendous, both vessels rebounding, but soon after drifted against each other, broadside to broadside, head and stern. At this juncture Captain Marchand ordered the guns to be fired into the enemy, the vessels being then so close as to almost enable the men to touch each other. The effect of this broadside was to force the enemy to abandon their guns, thereby so disabling them as to prevent their using the guns on that side during the remainder of the engagement. The men on either ship fought hand to hand. A determined attempt was here made by the crew of Captain Marchand, under his orders, to board the enemy's ship, but was found to be impossible on account

* Since promoted to commodore.

of the heavy coatings of tallow with which the enemy's iron decks were covered. Many of his men slipped off and fell into the water. In the attempt to run down the Tennessee the stern of the Lackawanna was cut and crushed far back of the plank ends, doing her great injury, and leaving her in places but a few inches above the water. From the disabled condition of the Lackawanna in coping with this much superior antagonist, the two vessels became separated, the ram going ahead, and the Lackawanna having nothing to hold on by, her captain ordered the helm hard over to bring the ship around, in order to make another attempt at running down the ram, but the great length of his vessel and the shoalness of the water, which was not more than a foot under the keel, prevented his turning rapidly, and in going round he collided with the Hartford, the admiral's flag-ship, although every effort was made on his part to prevent the collision by backing the engine. Of this it has been aptly said by a personal friend of admiral Farragut, the historian of this engagement, and who expressed the sentiment of the admiral, long after the occurrence, that "the fault was as much with the Hartford as with the Lackawanna, each being too eager to reach the enemy."—(J. C. Kinney, in Scribner's Monthly Magazine, June, 1881.)

After the Lackawanna had cleared the Hartford she again started to run down the Tennessee, but before reaching her the rebel flag had been hauled down, a white one hoisted, and the ram had surrendered to the Union fleet, which by that time encompassed her on all sides, rendering her escape impossible.

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48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1174.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 2428.]

The Committee on Pensions, to whom was referred the bill (S. 2428) granting a pension to Margaret B. Harwood, have examined the same, and report unfavorably, recommending indefinite postponement of the bill.

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Mr. BLAIR for the minority recommends its passage, and requests the printing of the following documents relative to the honorable services of Rear-Admiral Harwood, and the claim of his widow to the consideration of the country:

### MEMORIAL OF MARGARET B. HARWOOD.

*To the Senate and House of Representatives of the United States:*

The memorial of the undersigned, Margaret B. Harwood, respectfully showeth—

That she is the widow of the late Rear-Admiral Andrew A. Harwood, of the United States Navy.

That the said Harwood was born on the 9th October, 1802, entered the Navy as midshipman on the 1st January, 1818, and died on the 28th August, 1884.

That during his unbroken connection of sixty-six years with the service, his official and personal records were, in the language of the official order announcing his death, "unblemished."

That the Navy Register shows that he was employed in active service more than forty-one years.

That the several papers herewith submitted show—

(1) That while a midshipman he was on duty, first, in suppressing the slave trade on the coast of Africa, and afterwards, under the late Commodore David Porter, in cruising against pirates in the West Indies, having assisted in the capture of a piratical schooner and her barge.

(2) That early in his professional career he devoted himself to the study of ordnance, beginning when that branch of the naval service was in its infancy, and adhering to it, and becoming identified with it to such an extent that when the late war commenced the Ordnance Bureau of the Navy was committed to his charge.

While on ordnance duty, in 1844, he was member of a commission to visit the dock-yards and foundries of England and France, and to report on improvements in naval gunnery. As a consequence of the report of this commission he was appointed member of a board to prepare the ordnance instructions of the Navy, and to make the necessary investigations and experiments.

He was subsequently member of a board to revise ordnance instructions.

Referring to this latter duty, an officer well qualified to judge says: "There is no doubt that the high character of the ordnance of the United States Navy, and the excellence of the gunnery practice of that day, was due in a very great measure to the labors of the board of which he was an active member." (See "Outline," subjoined, No. 3.)

During the first year of the war he was chief of the Bureau of Ordnance, from

which he was transferred to the then important command of the Washington navy-yard, and of the Potomac flotilla, holding, in the latter capacity, the long line of the Potomac against the Confederate forces.

(3) He was subsequently assigned to duty on the Light-House Board, on which he continued nearly five years.

(4) From the Light-House Board he was taken to perform the duties of Judge-Advocate-General of the Navy, a position he held until the 1st October, 1871.

While on light-house duty, after he had been placed on the retired list, he devoted his leisure hours to the preparation of his work on Naval Courts-Martial, which is referred to in the accompanying documents (Nos. 3 and 5) as a work which at once took a "high position as a standard authority, followed in all military trials in the Navy."

Your memorialist respectfully calls attention to the fact that her late husband, though frugal, self-sacrificing, and economical in his habits, left very little property—not enough for the maintenance of his widow, his unmarried daughter, and several grandchildren who are in a dependent condition.

Your memorialist therefore prays that a pension of $50 a month be granted her, being the same amount allowed the widows of other officers whose rank was the same as that of her late husband.

In support of the various averments and allegations hereinabove set forth, your memorialist begs leave to refer to the following papers, herewith submitted:

1. General Order of the Navy Department announcing the death of Admiral Harwood.
2. Transcript from records of Navy Department indicating services of Admiral Harwood.
3. Outline of Admiral Harwood's official career, prepared by Commodore S. B. Lace, and indorsed by Admiral Porter.
4. Statement of Medical Director Philip Lansdale, U. S. N.
5. Statement of Lieut. W. W. Kimball, U. S. N.

And your memorialist will ever pray, &c.

MARGARET B. HARWOOD.

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## No. 1.

GENERAL ORDER ]

NAVY DEPARTMENT,
*Washington, September* 3, 1884.

The Department announces with regret to the Navy and Marine Corps the death, on the 28th ultimo, at Marion, Mass., of Rear-Admiral Andrew A. Harwood, United States Navy, in the eighty-second year of his age.

Rear-Admiral Harwood was born October 9, 1802, appointed a midshipman from the State of Pennsylvania, January 1, 1818, commissioned a lieutenant March 3, 1827, a commander October 2, 1848, a captain September 14, 1855, a commodore July 16, 1862, and a rear-admiral, on the retired list, February 16, 1869.

He was appointed Chief of the Bureau of Ordnance and Hydrography August 6, 1861, and served as such until July 22, 1862, when ordered to command the Washington navy-yard. While holding the latter position he also commanded, until December 18, 1863, the Potomac flotilla. In these, as in other positions to which he was assigned, on account of his special fitness, he served with credit and efficiency. His official and personal records are unblemished.

As a mark of respect to his memory, it is hereby ordered that, on the day after the receipt hereof, the flags of the navy-yards and vessels in commission be displayed at half-mast, from sunrise till sunset, and thirteen minute guns fired at noon from the navy-yards and flag-ships on stations.

EARL ENGLISH,
*Acting Secretary of the Navy.*

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## No. 2.

*Abstract from the record of Admiral Harwood.*

Andrew A. Harwood was appointed a midshipman in the Navy January 1, 1818.

April 20, 1818, was ordered to the Saranac; February 28, 1822, was ordered to duty in Philadelphia; December 30, 1822, was detached and ordered to Norfolk, Va.

September 10, 1823, was ordered to Philadelphia; March 15, 1824, granted six months' leave of absence.

July 26, 1824, ordered to the Constitution; October 23, 1827, detached and ordered to examination preliminary to promotion.

December 12, 1827, granted leave of absence.

February 21, 1828, was commissioned as a lieutenant, from March 3, 1827.

October 27, 1828, ordered to the receiving ship at Philadelphia; March 18, 1830, he was detached and granted six months' leave.

August 23, 1831, ordered to the navy-yard, New York; May 30, 1832, he was detached and ordered to the United States; August 27, 1833, he was detached and granted leave of absence.

June 10, 1834, ordered to the Erie; June 19, 1834, the previous order was revoked, and granted furlough for one year.

July 31, 1835, was ordered to the Constitution for duty on board the Shark; January 25, 1838, was detached and granted leave of absence.

April 3, 1840, ordered to special duty under Capt. M. C. Perry.

May 3, 1843, ordered to duty in the Bureau of Ordnance and Hydrography; October 7, 1848, was commissioned as commander from October 2, 1848.

October 18, 1852, detached from ordnance duty and ordered to the Mediterranean squadron; July 2, 1855, detached from command of the Cumberland and granted leave of absence.

October 8, 1855, was commissioned as a captain, from September 14, 1855.

September 10, 1858, ordered as inspector of ordnance, at navy-yard, Washington.

April 24, 1861, detached and ordered as temporary chief of Bureau of Ordnance.

August 19, 1861, was appointed chief of the Bureau of Ordnance; July 22, 1862, detached and ordered to command the navy-yard, Washington, D. C.

August 4, 1862, promoted to commodore, on the active list, from July 16, 1862.

December 7, 1863, detached from command of the navy-yard, Washington, 31st instant.

December 18, 1863, detached from command of the Potomac flotilla.

July 6, 1864, ordered as secretary of the Light-House Board.

October 9, 1864, was placed on the retired list.

February 20, 1869, commissioned as rear-admiral on the retired list.

March 29, 1869, detached from the Light-House Board and placed on waiting orders. March 30, 1869, ordered as member of a court at Washington. September 20, 1869, detached and ordered to special duty at the Department. September 29, 1870, detached.

October 11, 1870, appointed Judge-Advocate of the Navy.

October 1, 1871, detached and placed on waiting orders.

He died at Marion, Mass., on the 28th of August, 1884.

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## No. 3.

*Outline of the official career of Admiral Harwood, by Commodore S. B. Luce, U. S. N., with the indorsement of Admiral Porter.*

Harwood (Rear-Admiral Andrew Allen, U. S. Navy), son of John Edmund Harwood and Elizabeth Franklin Bache, granddaughter of Dr. Benjamin Franklin. Born in 1802, in Bucks County, Pennsylvania.

Appointed midshipman in United States Navy 1818, his first vessel being the gunbrig Saranac.

His next service was on board the sloop of war Hornet, from 1819 to 1821, engaged cruising in the West Indies for the suppression of piracy and the slave trade.

In 1823 he was on board the Sea Gull, serving with the barges belonging to the expedition of Commodore David Porter against the pirates.

On July 3 of that year assisted in the capture of the piratical schooner Catalina, of three guns, and her barge, by the barges of the Gallinipper and Mosquito.

In 1844 he was on ordnance duty, during which time he was appointed as member of a commission to visit the dock-yards and foundries of England and France, and to report on improvements in ordnance and naval gunnery. As a consequence of the report of the commission he was appointed member of a board to prepare the ordnance instructions for the United States Navy, and to make the necessary investigations and experiments.

Subsequently, 1858–'61, he was again on ordnance duty and member of a board to revise ordnance instructions and to prepare a new edition with a view to bringing the work up to the times. There is no doubt that the high character of the ordnance of the United States Navy and the excellence of the gunnery practice of that day was due in a very great measure to the labors of the board of which he was an active member.

August 6, 1861, he became chief of the Bureau of Ordnance and Hydrography; 1862, in command of Washington navy-yard and Potomac flotilla.

Again, he was secretary of the Light-House Board, member of Examining Board, and for a time occupied an office analogous to that of Judge-Advocate-General. It was while on light-house service that he produced his work on "Naval Courts-Martial," in which he presented in a "collective and concise form the leading principles of military jurisprudence. together with the distinguishing laws and regulations which govern the practice of United States naval courts-martial." This work, which at once took a high place as a standard authority, is noted for its scholarly style and thoroughness of construction. It may not be out of place to remark, however, that, owing to the very limited demand for works of that character, it was not a financial success.

For the generation to which he belonged, Rear-Admiral Harwood was an officer of unusual attainments, and exhibited in an eminent degree the characteristics of a Christian gentleman in all the varied relations of life.

S. B. LUCE,
*U. S. Navy.*

I cheerfully subscribe to the above, and am of opinion that no officer's widow is better entitled to a pension than Mrs. Harwood.

DAVID D. PORTER,
*Admiral.*

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## No. 4.

WASHINGTON, D. C., *December* 1, 1884.

I was intimately acquainted with the late Admiral A. A. Harwood for about forty years. He was a thorough gentleman in every sense of the word, a consistent Christian, a most loyal citizen, and, as an officer of the Navy, one who set a worthy example in his strict attention to duty as a subordinate, and an intelligent and temperate exercise of his authority as a commanding officer.

Admiral Harwood inherited from his grandfather, Benjamin Franklin, a love of study and an aptitude for scientific knowledge, which made his services of peculiar value to the Navy. After having attained, by voluntary training, an education much beyond that of the naval officers of his generation, he made a special study of ordnance, and was one of the earliest and most efficient of the officers who aided in the development of that most important branch of scientific warfare. His distinguished services in that direction caused him to be selected as chief of the Ordnance Bureau.

In his work on "Courts-Martial," now a standard authority, he has left a monument which will be a worthy memento of his intelligence and industry.

During the late civil war Admiral Harwood held a most important position—that of commandant of the Potomac flotilla, holding the long line of the Potomac against the Confederate forces.

Having thus served his country most actively and efficiently both in peace and war during a long life, he has died leaving his family very insufficiently provided for.

P. LANSDALE,
*Medical Director, U. S. Navy.*

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## No. 5.

UNITED STATES STEAMER TENNESSEE,
*New York, N. Y., December* 15, 1884.

MY DEAR MR. LUCE: To me it is apparent that even the brief and imperfect summary of his record that I can give from the references at hand will plainly show that the Government of the United States is deeply indebted to the late Rear-Admiral A. A. Harwood for his continuous, brilliantly able, and entirely unselfish efforts in behalf of his country during the fifty-four years he served her on duty in the Navy.

Entering upon his naval career as a midshipman January 1, 1818, he was at once ordered to arduous and dangerous duty in cruising against the slave trade on the coast of Africa, where, escaping the worst effects of the deadly climate, he served three years, and was then selected as one of the officers of Porter's expedition against the West India pirates, an expedition that, in suppressing the horrors of piracy off our own coast was of almost inestimable value to the commerce of the United States and of the world. It was during the two years' time of this duty that Midshipman Harwood distinguished himself in the action in Signapa Bay that resulted in the capture of the piratical schooner Catalina and her barge by the barges Gallinipper and Mosquito.

For the succeeding ten years he was doing routine duty afloat and ashore, but doing it in such a way that he was marked among his associates for his extraordinary

abilities and unswerving devotion to duty, and in 1833 he was distinguished by his flag officer by being detailed as special messenger to take to the United States from Naples the ratified treaty with that power.

A few years later he began the work of improving the *matériel* and reorganizing the service of the ordnance of the Navy, a work which he followed unremittingly for twenty years, and which resulted in the greatest benefit to the country. In 1840 the ordnance of the Navy was crude, lacked power for weight of metal carried, and was served very much according to the ideas of the individual commanding officers; and it was mainly by the efforts of Lieutenant Harwood that this state of affairs was remedied.

He first experimented upon the guns and projectiles until he attained a standard that determined the composition of ship's batteries, and fixed a rule for inspection; and it was during this work that he was sent to Europe to investigate and report upon the condition of naval ordnance there; afterwards, associated with Farragut, he prepared a system of ordnance instructions which made exercises, drills, and inspections thorough and uniform, and vastly improved the service of the guns. To Harwood the Navy owes that system of ordnance which later on, further developed by Dahlgren and others, showed such wonderful results as were attained during the war of the rebellion. His extraordinary abilities as an ordnance officer were so well appreciated by the Navy Department that when the war of the rebellion came he was the man selected in that trying time to devise, procure, and arrange the arms with which the ships of the United States were to fight.

How well that duty of chief of Ordnance was performed is now a matter of history, but the work he did and the difficulties he overcame in that great emergency can hardly be overestimated. After he had organized this work, and as soon as the strain brought on the Department by the first year of the war was relieved, his services were spared from the Bureau of Ordnance because they were required more directly against the enemy. In July, 1862, he was placed in command of the Potomac flotilla and the Washington navy-yard, and it was to his efforts that was due that condition of things on the Potomac which made the flotilla such a terror to its enemies and so reliable a defense for the national capital.

In 1864 Admiral Harwood was retired from the active list in accordance to law; but his services were so valuable that he was employed on various special duties for eight years longer, till, in 1872, the law putting all retired officers off duty deprived the Department of his assistance.

It was during this latter part of his service that he wrote the work on courts-martial, which is at present the authority followed in all military trials in the Navy. Before Harwood's work was published it was almost impossible, in the time allowed, for naval courts to properly inform themselves on points of law, precedent, and principle, and as a natural consequence much injustice resulted; sometimes in the direction of too great severity, and again in treating with too great leniency serious breaches of discipline. It is to Harwood chiefly that the Navy to-day owes that regulation of disciplinary rule which makes marked injustice in military law impossible, gives to every man, whatever his rank, his legal rights and almost inevitably brings adequate punishment for military crime.

I have endeavored in this letter to designate some of the more prominent achievements in his extraordinary career, some of the more successful efforts entirely above and beyond those in the line of duty that might have been expected of him in his character of an officer of the Navy, but I find it impossible to express the effect of his example on the service.

Still, this effect may be imagined when one remembers that during his long naval career he always gave himself, and required from others, the strictest attention to duty, was in his intercourse with all the pattern of what an officer and a gentleman should be, and was the just and upright man that his great progenitor Franklin desired for a descendant.

His greatest fault as an officer was that his modesty prevented him from requiring his own rights, and thus deprived the service of an example showing commensurate reward for unswerving devotion to duty, unceasing effort, and brilliant attainments.

Very sincerely,

WM. W. KIMBALL,
*Lieutenant, United States Navy.*

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1175.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 6311.]

The Committee on Pensions, to whom was referred the bill (H. R. 6311), granting a pension to Mrs. Sarah S. Sampson, have examined the same, and report favorably, recommending its passage.

This claim is supported by a petition setting forth the facts, signed by Governor Robie and nine hundred citizens of the United States.

It has passed the House of Representatives, and we adopt the statement of facts as set forth in the report of the Committee on Pensions of that body, submitted by Mr. Ray, as follows:

It appears from the papers before your committee that Mrs. Sarah S. Sampson joined the Third Maine Volunteers as matron when that regiment left Maine for active service, June 3, 1861. Her husband, then Capt. Charles A. L. Sampson, commanded a company in the regiment, and was subsequently promoted to be lieutenant-colonel of the same. From a report of Mrs. Sampson's services, published in the official report of the adjutant-general of the State of Maine for 1865, it appears that she was daily in attendance at the regimental hospital so long as the regiment remained encamped at Meridian Hill, near Washington; that she was at Clermont, caring for the wounded of Bull Run; that she was with the sick and wounded in the brigade hospital every day to the embarkation for the Peninsula, in March, 1862, and that she was distributing supplies and caring for the inmates of the hospitals all through the battles of the memorable Peninsular campaign.

In the autumn of 1862 her efficiency had been so well tested that she was assigned to visit hospitals in the Department of Washington, in which capacity she did so conspicuous service as to win the commendation of those in command. In December, 1862, she was in the hospitals at Fredericksburg, caring for the wounded of the first battle at that place. In February, 1863, she visited Birney's division hospital, near Falmouth, with supplies. She did conspicuous service in the hospitals at Gettysburg, after that battle, and from that time to March, 1864, she was assiduously employed in the hospitals around Washington. In March, 1864, she was in the hospital at Brandy Station, and after the battle of the Wilderness went again to Fredericksburg to care for the wounded of that bloody contest.

Through the summer of 1864 she labored so devotedly in the hospitals at White House Landing, Fortress Monroe, and City Point that she was taken ill with fever, and was not able to return to hospital work till February, 1865. As soon as her health permitted she joined the Army hospitals at City Point, and labored assiduously, caring for our sick and wounded till the war closed and the last of the sick and wounded had been removed.

The testimonials to the rare devotion and great efficiency of Mrs. Sampson's labors during the four years' labors in the Union hospitals are numerous and conclusive.

General M. V. Wiswall, military governor of the District of Columbia, says:

"I had abundant opportunity to observe Mrs. Sampson in her work of caring for the sick and wounded. I think I do her but justice when I say that during her nearly three years of service I know of no one more earnest, more self-sacrificing, or more intelligent in the discharge of duty than she was. Such women should be recognized by the Government."

Ex-Vice-President Hannibal Hamlin, under whose observation Mrs. Sampson's self-sacrificing labors came, says:

"I know Mrs. Sampson very well, and I know well the heroic and Christian duties which she nobly discharged during the war. * * * I think Congress should be asked to give her a pension, first on the ground of her services, and second on the ground that her husband was entitled to a pension, but from patriotic reasons did not obtain it."

Rev. A. F. Beard, during the war connected with the Christian Commission and now pastor of the American church, Paris, says:

"My first introduction to Mrs. Sampson was subsequent to the battle of the Wilderness, in Fredericksburg, where, overcome by work and exposure and the ghastly service, I was in extreme sickness. In her rounds Mrs. Sampson found me and ministered to me among hundreds of others, with a skill and fidelity which saved my life, as it did the lives of many."

Hon. Anson P. Morrill, ex-governor of and ex-Representative to Congress from Maine, says:

"I saw much of Mrs. Sampson at Washington in 1861, '62, and '63, and knew her labors in behalf of the sick and wounded soldiers. * * * I found Mrs. S. to be a woman of wonderful energy and capacity, and thoroughly devoted to the alleviation of the suffering soldiers."

G. S. Palmer, M. D., late surgeon of the Third Maine Volunteers, and surgeon United States Volunteers, says:

"Mrs. Sampson was exceedingly well qualified in health, disposition, and intelligence to perform the most arduous and delicate duties of nurse and friend to the soldier, and she did perform these duties with most wonderful skill and cheerfulness. * * * I think I can say with truth, and without disparagement to any one else, that Mrs. Sampson was the most energetic, careful, and efficient female nurse in the Army. Her late husband was at first captain of Company D, Third Maine Regiment, and subsequently promoted to lieutenant-colonel. He was stricken down with malarial fever in the Peninsular campaign; was carried to Fortress Monroe, where he lay weeks suffering from that exhausting disease, from the effects of which he never recovered."

The following order from the War Department is of interest in this connection:

WAR DEPARTMENT,
*Washington City, September* 21, 1864.

GENERAL: In consideration of the great services that Mrs. C. A. L. Sampson has rendered to our sick and wounded soldiers, the Secretary of War directs that you furnish her transportation to her home in Maine, and also to return from there to this city.

Your obedient servant,

C. A. DANA,
*Assistant Secretary of War.*

Brig. Gen. D. H. RUCKER,
*Chief Quartermaster.*

It appears that Lieutenant-Colonel Sampson, husband of Mrs. Sarah S. Sampson, resigned, after a little more than a year's service, in July, 1862, on account of ill-health, and that from that time until his death, January 1, 1881, his health was broken. The death of her husband has made it necessary for Mrs. Sampson to support herself, a task which increasing years is rendering more and more difficult.

In view of these facts, and in further view of the services of Mrs. Sampson in caring for the orphan children of deceased soldiers since the close of the war, nine hundred officers and soldiers of the Union Army in Maine have united in a petition asking Congress to grant her a suitable pension.

Your committee recommend the passage of a bill allowing her a pension of $25 per month.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1176.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 6956.]

The Committee on Pensions, to whom was referred the bill (H. R. 6956) granting a pension to Maria H. Sargent, have examined the same, and report, recommending the passage of the same.

The facts are stated in House report as follows:

Maria H. Sargent was one of ten women, all of whom excepting herself have since died, who was appointed by Surgeon E. P. Kimball, of Lowell, Mass., early in 1861, under instructions from General Butler, as nurse in the late civil war. Entering immediately upon her duties, she continued to serve in that capacity for two years, at which time she was prostrated by severe illness, which she contracted by her untiring and devoted attention to the sick and wounded soldiers, and which compelled her to resign her position as nurse. Returning to her home broken in health and with shattered constitution, she has since battled with disease, which has assumed a chronic form, getting along as best she could by the help of charitable friends, and has never called upon the Government for assistance until now. She is a widow and alone, seventy years old, and feels that the Government should render her some assistance in the few years of life now remaining to her.

Dr. Kimball, who appointed her, says:

"She rendered good and faithful service until her health failed. She was very sick while under my charge at Fortress Monroe, the exact time, however, I do not remember, from malarial disease, which threatened for some time to prove fatal, taking, however, a favorable turn, she was removed to Massachusetts. Since that time she has been an invalid and constant sufferer, from exposure and hardships while in service. She is now at an advanced age without means of support."

Col. James May, Tenth Massachusetts Volunteers, says:

"Since her return from the Army, where she had the care of our sick and wounded, I know her to be a decided invalid, resulting from hardships and exposure to disease while in faithful discharge of her duty as nurse."

Henry O. Marcy, M. D., says:

"She has been an invalid since her service as nurse during our late war, induced by exposure consequent thereon. She has been under my care, at different periods, for several years. She is now quite destitute."

Dr. G. Ryder says, under date of January 7, 1884:

"Mrs. Sargent, of Linden, Mass., is under my care, confined to house and bed on account of hepatic and general sickness. Her former physicians certify her condition to have been consequent to her service during the rebellion, and she has since been a victim of a chronic malady, and now, in her old age, is rendered nearly helpless by disease."

Dr. W. C. Flowers says:

"Have treated Mrs. Sargent for chronic disease of the liver, and other diseases resulting from malarial fever contracted while on duty as nurse during the late war."

John A. Goodwin, postmaster at Lowell, Mass., says:

"Mrs. Sargent was very favorably known to me as one of the volunteer nurses at Old Point Comfort. Our then major, the late Hon. Benjamin C. Sargent, held her services in high estimation, and considered her example and her patriotic zeal as of great value at that crisis. It is a matter of common knowledge that her health was

ruined in the hospital service, and that she is a constant sufferer therefrom. I have met several of the soldiers who came under her care, and know that they have for her very grateful feelings. I am sure that any relief afforded Mrs. S. will be most worthily bestowed, and will be a deserved return for her patriotic effort in the darkest days of the war."

In view of all the facts in this case, the arduous, faithful, and untiring devotion to her duties as nurse to our sick and wounded soldiers, the incurrence of diseases in the line of her duty, which have since become chronic, rendering her at her advanced age almost helpless, your committee are of opinion, in view of precedents already established, that she should receive a pension for the few remaining days of her life, and therefore recommend the passage of the accompanying bill.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1177.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 3527.]

The Committee on Pensions, to whom was referred the bill (H. R. 3527) granting a pension to George A. Marshall, have examined the same, and report favorably, recommending its passage. We refer to the report of the House for the facts.

[House Report No. 897, Forty-eighth Congress, first session.]

The Committee on Pensions, having had under consideration House bill 3527, have carefully considered the same, and find that George A. Marshall, for whom the bill proposes relief, was a soldier of the Mexican war; that he was sound when he entered the service; that he was afflicted with piles and asthma on his return, and that he is now and has been so afflicted nearly all of the time since his return.

Your committee therefore recommend the bill do pass.

In support of these views are appended papers 1, 2, 3, 4, 5, 6, 7, 8, and 9, which are made a part of this report.

STATE OF MISSOURI,
*County of Clay, ss:*

W. H. Gorin, M. D., being duly sworn according to law, deposes and says that he was for the period of thirty-one years, and still is, a resident of Missouri City, in Clay County, Missouri, and that during all of said time he was, and still is, a practicing physician. That for twenty years last past he has personally known George A. Marshall, a resident of said Missouri City; and that during the years of 1859, 1860, and 1861 he personally attended on said George A. Marshall, and treated him medically for the piles and asthma with which he was then and still is suffering, and from the effects of which said diseases he was and is yet disabled to perform manual labor. W. H. Gorin furthe states that he has no interest in the prosecution of said George A. Marshall's claim for pension.

W. H. GORIN, *M. D.*

Subscribed and sworn to before me this 8th day of February, A. D. 1883, and I hereby certify that I have no interest in the prosecution of said Marshall's claim for pension.

[SEAL.] L. B. SUBLETT,
*Notary Public.*

(My term of office expires January 25, 1887.)

STATE OF MISSOURI,
*County of Clay, sct:*

I, Luke W. Burris, clerk of the county court in and for said county, do hereby certify that L. B. Sublett, whose genuine signature appears to the within certificate, was at the time of signing the same a duly commissioned and qualified notary public under the laws of the State of Missouri.

In testimony whereof I have hereunto set my hand and affixed the seal of my office as clerk of the county court for the county aforesaid this 10th day of February, A. D. 1883.

L. W. BURRIS, *Clerk.*

APRIL 28, 1883.

MISSOURI CITY, CLAY COUNTY, MISSOURI:

I first became acquainted with George A. Marshall in the year 1859; was with him during the late civil war in this State. I never knew him to take any part against the Government of the United States; looked on him as a loyal citizen. I was on duty in Ray and Clay for several months; was at the residence of George A. Marshall. He always told me he was in the Mexican war from Kentucky. I enlisted 5th of August, 1861; was commissioned in July, 1862; was honorably discharged, which our old muster-rolls will show. I have no interest in this claim, no way, shape, nor manner.

WILLIAM N. PERKINS,
*Late Second Lieutenant, Company K, Sixth M. S. M. Cav. Vols.*

Sworn to and subscribed before me this 28th day of April, 1883.
[SEAL.] L. B. SUBLETT,
*Notary Public.*

(Term of office expires January 25, 1887.)

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PROOF OF LOYALTY.

We, the undersigned, citizens of Clay County, State of Missouri, do hereby certify, as upon oath, that during the late war of the rebellion we were each well and personally acquainted with George A. Marshall, who was then a citizen of the above-named county and State, and that, to the best of our knowledge and belief, he was, on the 1st day of March, 1861, and thenceforward to the end of the war, loyal to the Government of the United States.

We further state that we have no interest in any claim in which this certificate is to be used as evidence.

WILLIAM N. PERKINS.
JOHN FRITZLER.

I do hereby certify that I am an officer of the United States; that I have carefully examined the above certificate and the signatures thereto, and that each of said signers is a man of good character and worthy of belief.

I further certify that I am acquainted with George A. Marshall, and believe him to have been loyal to the United States during the late war.

Witness my hand and stamp of office this 28th day of April, 1883.
[Office stamp.] ROBERT F. CASEY,
*Postmaster at Missouri City, Clay County, Missouri.*

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STATE OF MISSOURI,
*County of Clay, ss:*

Lewis G. Hopkins, of the county of Clay and State of Missouri, being duly sworn according to law, deposes and says that he has been personally acquainted with George A. Marshall, of said Clay County, Mo., for the period of 12 years last past, and that during all of said time said George A. Marshall was, and still is, afflicted with the piles and asthma, from the effects of which said diseases he was, and still is, as he verily believes, disabled to perform manual labor. Lewis G. Hopkins further declares that he has no interest in the prosecution of said George A. Marshall's claim for pension.

LEWIS G. HOPKINS.

Subscribed and sworn to before me this 7th day of February, A. D. 1883, and I further certify that I have no interest in George A. Marshall's claim for pension.
[SEAL.] L. W. BURRIS,
*Clerk County Court, Clay County, State of Missouri.*

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STATE OF MISSOURI,
*County of Andrew, ss:*

Dr. Frank Wakefield, being duly sworn, upon his oath says that in April, 1857, he resided in the city of Savannah, Mo., and was then and there a practicing physician, and during said month of April, 1857, George A. Marshall applied to him for treatment of the asthma, and that he then and there examined said George A. Marshall.

and found him affected with asthma, for which disease he, said Dr. Frank Wakefield, prescribed and treated medically for several weeks, him, the said George A. Marshall.

Dr. Frank Wakefield further says that he has no interest in the prosecution of Geo. A. Marshall's claim for pension. I have no notes to refer to, but think the above statements are correct.

M. F. WAKEFIELD, *M. D.*

Subscribed and sworn to before me this —— day of January, A. Da1883.

M. F. WAKEFIELD, *M. D.*

Subscribed and sworn to before me, a circuit clerk in and for the county of Andrew, in the State of Mo., this 17 day of January, A. D. 1882.

J. C. CROOKS, *Clerk,*
Per THOS. H. ENSOR, *D. C.*

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STATE OF KENTUCKY,
*County of Nelson:*

Before me, R. W. Barnes, a justice of the peace within and for the county of Nelson aforesaid, personally came Richard Constantine, who is personally known to me to be a good and lawful citizen of the county of Nelson and State of Kentucky aforesaid, and who, being duly sworn according to law, upon his oath says, that prior to and during the war with Mexico he was personally well acquainted with George A. Marshal, who was a private in Company C, Fourth Regiment Kentucky Volunteers; that the said George A. Marshal, when he enlisted as a soldier, was sound and healthy, and that during the war and in the Republic of Mexico the said George A. Marshal was afflicted with piles and asthma—this was in the years 1847 and 1848. And this deponent says that the above facts he knows to be true; and further this deponent says that he is not directly or indirectly interested in the prosecution of this claim.

[SEAL.] R. CONSTANTINE.

Sworn to and subscribed before me, a justice of the peace within and for the county and State aforesaid, and I hereby certify that I am not interested in the prosecution of this claim, directly or indirectly, this 3 day August, 1883.

R. W. BARNES,
*J. P. N. C.*
*Justice of the Peace.*

STATE OF KENTUCKY,
*County of Nelson, sct.:*

I, William H. Rowan, clerk of the county court in and for the county and State aforesaid, do certify that R. W. Barnes is a justice of the peace, duly commissioned and qualified, and that his signature is genuine, and that he is and ought to be entitled to full faith and credit for all his official actions.

Given under my hand and seal of office this 3 day of August, 1883.

[SEAL.] WM. H. ROWAN,
*Cl'k Nel. Co. C't.*

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James B. Houston and Lucretia A. Houston, of Mattoon, Cole County, Illinois, late of Nelson County, Kentucky, being by me duly sworn upon their oaths, say that they personally knew George A. Marshall, formerly of Nelson County, Kentucky, for a period of four years first preceding his enlistment in the services of the United States against Mexico, in the year 1847, during which time he boarded with them, and that said George A. Marshall during all of said time was physically healthy and free of any disease.

Said James B. Houston and Lucretia A. Houston further state under oath that George A. Marshall aforesaid returned to their house in Nelson County, Kentucky, on the —— day of July, 1848, at which time he, said Marshall, was afflicted with the piles and a disease of the throat or lungs commonly called asthma, from the effects of which diseases he was disabled to perform manual labor for a period of six years, being the remainder of the time when he resided with them.

JAMES B. HOUSTON,
LUCRETIA A. HOUSTON.

Subscribed and sworn to before me this 16th day of January, A. D. 1883, and I hereby certify that I have no interest in the prosecution of the claim for pension of the aforesaid George A. Marshall.

[SEAL.] W. H. K. PILE,
*Notary Public.*

STATE OF MISSOURI,
*County of Vernon:*

Thomas Morton Campbell, being duly sworn by me, upon his oath says t personally knew George A. Marshall before the Mexican war, and during the s in the war in the years 1847 and 1848, and to his knowledge he contracted the known as piles and phthisic (or asthma) during the services in the war with M and that he knew him to have those diseases while on the march from Vera C Mexico City.

THOMAS MORTON CAMPBE

(Belonged to Company I, Marcus R. Harden captain, Fourth Regiment Ke Volunteers.)

Subscribed and sworn to before me this the 9 day of August, 1883.

JASPER McCRARY
*Justice of the Peace in Clear Creek Tow*

CERTIFICATE.

STATE OF MISSOURI,
*County of Vernon, ss:*

OFFICE OF THE CLERK OF THE COUNTY Co

I hereby certify that Jasper McCrary, before whom the foregoing affidav made, and who has thereunto subscribed his name, was at the time of so doing tice of the peace in and for the county aforesaid, duly commissioned and swo that his signature thereto is genuine.

In testimony whereof I have hereunto set my hand and affixed the seal of my as clerk of the county court for the county aforesaid, this 9th day of Aug., 188

[SEAL.] A. CUMMUS, *Cler*
S. V. WORTH, *D*

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EXAMINING SURGEON'S CERTIFICATE.

(Old war.)

[Name of claimant, George Marshall, private, Company C, Fourth Regiment Kentucky Vol Mexican war. Examining surgeon's address, Kansas City, Jackson County, Missouri. examination, May 2, 1883.]

We hereby certify that we have carefully examined this applicant, who claim while in the service of the United States, at or near a place named (old) Mexic while in line of duty, on or about the —— day of fall, 1847, he incurred pile asthma, and that in consequence thereof he is totally disabled for earning hi sistence by manual labor.

He states that he is fifty-four years of age; that he weighs 140 pounds, and t is 5 feet 8 inches in height.

His pulse-rate per minute is 84, his respiration 18, and his temperature 98¼.

The examination reveals the following facts: Piles, external (annular), 2 i across; congestion of the rectum (rate, half); increased resonance of the entire l vesicular murmur increased; expiration prolonged (rate, half).

From the condition and history of the claimant, it is our opinion the disabilit incurred in the service as claimed, and that it is not aggravated or protract vicious habits.

We find the disability as above described to entitle him to total rating.

F. COOLEY,
S. D. BOWKER,
JOHN THORNE,
*Examining Surge*

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1178.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. VAN WYCK, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 357.]

*The Committee on Pensions, to whom was referred the bill (S. 357) granting a pension to William Lockhart, have examined the same, and report:*

That claimant is now nearly 80 years of age. There is no doubt of his service in the Black Hawk war in 1832, and that he was wounded. The Pension Department rejected the claim on the ground that there was no proof the disability arose from the service, but a comrade swears distinctly he remembers when claimant went with a raiding party, and that he came back wounded, and in the wagon which brought in the wounded soldiers, and the committee therefore recommend the passage of the bill.

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DO NOT CIRCULATE

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1179.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. VAN WYCK, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 2140.]

*The Committee on Pensions, to whom was referred the bill (H. R. 2140) granting a pension to Hugh Dougherty, have examined the same, and report:*

This soldier entered the military service September 20, 1862, and was discharged May 29, 1865, as second lieutenant of Company K, Thirteenth Kansas Volunteers. On the 15th of July, 1880, he made application for pension, which was rejected January 24, 1884, for want of hospital record and inability to furnish medical evidence. Claimant avers that he contracted rheumatism in hip and back August, 1863. Cause, exposure to weather, the tents being blown over at night during a rainstorm, and he was obliged to lie all night in the rain, causing the first attack of rheumatism. Again, in the chase after the rebel General Cooper, in the Cherokee Nation, during two weeks of rainy weather was obliged to lie out unprotected by tents.

Patrick Langan and Thomas L. Seip, two neighbors, testify that they were personally and intimately acquainted with him from 1859 till time of his enlistment; that for the two last years they worked with him almost daily, and that he was a sound, able-bodied man.

Capt. P. H. McNamara, of Company K, says:

In August, 1863, Hugh Dougherty was disabled in the line of his duty by the tents being blown over in a storm, and the claimant lying out all night in the rain, from the effects of which said claimant contracted rheumatism in the back and afterwards in the right hip, which was afterwards aggravated by hard marching and exposure whilst marching through the Indian Territory after Confederate General Cooper, without tents. I know these facts from having been present in person.

J. J. Locker, probate judge of Atchison County, a gentleman whose integrity is unquestioned, testifies, on 25th of July, 1883:

He has known Hugh Dougherty intimately for the last nineteen years, but the more particularly since discharge; that he has seen him, on the average, weekly in the years 1866, '67, '73, '74, '75, '76, '77, and '78, and almost daily in the years 1868, '69, '70, '71, and until August in 1872, and in 1879, '80, '81, '82, and to date. I know that he has frequently been laid up from work by reason of rheumatism in back and legs. I remember distinctly of meeting him in January, 1866, and of his then complaining of rheumatic pains in back and legs, and of his positive assertion at the time that although entitled to pension he should never apply. He was then better off financially than now. I have noticed that the disability is increasing on him, and has gradually ever since he left the service.

Dr. J. M. Linley, an eminent physician of Atchison, testifies that he treated him for rheumatism in 1871, and has occasionally ever since.

Several of his near neighbors and friends testify that they have known him intimately since his discharge, and that he has been afflicted with rheumatism ever since. Claimant says that he was treated by Surgeon Grimes while in the service, but that physician died in 1877. The Adjutant-General's report shows that in September and December, 1863, he was borne on the rolls at different times as "present, sick."

The evidence in this case is of a high order, and seems ample, with the exception of proof of medical treatment up to 1871. He is unable to prove medical treatment in the service, because Surgeon Grimes is dead. He testifies that for six years after his discharge he endeavored to treat himself, with the help of his wife. He was examined August 9, 1882, by Medical Examiner A. P. Tenney, who reports him three-fourths disabled.

This case was reported adversely by this committee in March, 1884, but, upon a further examination, the proof of superior officers shows the time and cause of the disability in the service. Although slight at first, it never left him, but continued to increase, he being cared for several years by his wife until he was compelled to employ a physician, and finally became a permanent disability.

Your committee have no hesitation in saying that it is proven beyond a reasonable doubt that the disease was incurred in the line of duty and has existed ever since, and therefore recommend the passage of the bill.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1180.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. VAN WYCK, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 5923.]

The Committee on Pensions, to whom was referred the bill (H. R. 5923) granting a pension to Ruth Stratton, have examined the same and report that the bill do pass.

[House Report No. 1359, Forty-eighth Congress, first session.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5923) granting a pension to Ruth Stratton, having considered the evidence in the case, report:*

That Ruth Stratton is the dependent mother of Albert Stratton, who enlisted in the military service of the United States as a private in Company F, Eighty-fourth Regiment Indiana Volunteers, August 8, 1862, and was honorably discharged June 14, 1865.

January 27, 1876, Albert Stratton was placed on pension-roll at the rate of $2 per month, for dislocation of elbow, received by a fall during a bayonet charge at Resaca, Ga., May 14, 1864, and died June 4, 1879, of heart disease.

January 3, 1880, Ruth Stratton, mother of the deceased soldier, filed an application for pension, on account of the death of her son, which was rejected January 29, 1883, on the ground that soldier's death was not shown to be due to his military service.

It appears from the evidence in the case that the husband of claimant is eighty-two years old, and is now, and was at time of soldier's death, entirely helpless from paralysis and old age, requiring constant care and attention of some one to wait upon him, and that she and her husband were almost entirely dependent upon the deceased soldier for support. This fact is fully shown by four of the near neighbors and intimate acquaintances of claimant, all residents of Knightstown, Ind.

It is also shown that deceased soldier left no widow or children surviving him.

Amos D. Muir, M. D., of Knightstown, Ind., testifies August 26, 1882:

"That while soldier was detailed as blacksmith at Nashville, Tenn., November or December, 1864, he was first attacked with smothering spells, and on account of same he was obliged to quit work. Soldier had said spells frequently after he was discharged and finally died in one of them, which is supposed to have been caused by heart disease."

Joshua P. C. Wilborn, of Knightstown, Ind., testifies January 17, 1882:

"That he was first lieutenant Company F, Eighty-fourth Regiment Indiana Volunteers, and has no record, but believes that soldier's fatal disease was the result of Army exposure. Is unable to give time, place, or circumstances of said disease. His difficulties consisted of a croup, difficult breathing or smothering spells, and an injured arm. Is credibly informed he died in one of those smothering spells."

Frank Stratton (brother), of Knightstown, Ind., testifies July 28, 1882:

"Soldier was free from any disability when he enlisted; was stout and able-bodied; was suffering from smothering spells when he came home from the Army, which continued up to his death. He slept with affiant after coming home, and would have to be lifted up in bed and worked over; and affiant would think he would surely smother to death. He was treated by Doctor Canada for said disability as soon as he got home.

Dr. Wilson Hobbs, of Knightstown, Ind., also testifies, January 17, 1882, t
treated the deceased soldier professionally the last two or three weeks of his l
valvular disease of the heart, which caused his death.

It is also shown that Dr. Canada, who first treated the deceased soldier aft
return from the Army, is dead.

Your committee are clearly of the opinion that the disease which caused the
of the soldier was contracted while he was in the military service of the United S
in the line of his duty, and that he was the sole dependence of his aged pare
support, and that the claimant is without any means of support, with her aged
band a confirmed paralytic; and therefore recommend the passage of the accom
ing bill.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1181.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. VAN WYCK, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 1804.]

*The Committee on Pensions, to whom was referred the bill (S. 1804) granting a pension to Clarinda Hunt, have examined the same, and report as follows:*

Clarinda Hunt is the foster mother of Edward W. Hunt. The said Hunt enlisted September 15, 1864, as landsman for one year, and served on the Vermont from that date to September 18, 1864; on Grand Gulf, September 19, 1864, to August 2, 1865; on Portsmouth, August 3 to 31, 1865; on North Carolina, September 1 to 1, 1865, when he was discharged as landsman.

During the service and by exposure the said Hunt contracted a cough which resulted in disease of the lungs, which finally resulted in his death.

The proof is abundant that he was sound and well when he entered the service, and came home with the disabilities which resulted in his death; and your committee therefore recommend the passage of the bill.

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DO NOT CIRCULATE

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1182.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 1803.]

*The Committee on Pensions, to whom was referred the bill (S. 1803) granting an increase of pension to George A. Washburn, have examined the same, and report:*

The claimant, George A. Washburn, late major of the Sixteenth Connecticut Volunteers, was pensioned for gunshot wound of left thigh at $12.50 per month from January 17, 1863, the date of his discharge. This pension was increased to $25 per month from October 7, 1869. No further claim appears to have been made before the Department.

The claimant now asks that this amount be increased, and presents the following affidavit made by his attending physician:

This is to certify that I have made examination of General G. A. Washburn, late major Sixteenth Connecticut Volunteers; that I am familiar with his condition and habits for the past year, and am of opinion that he is totally incapacitated for all forms of manual labor. By reason of wounds received in battle his left leg is of little use, interfering with riding, getting in and out of a carriage, &c., necessitating the constant use of a stick. At frequent periods he cannot for days together go out of doors. His rest at night is disturbed by great pain, which requires the attendance of another person to nurse him, and the use of large amounts of pain-quieting medicine. When absent from home he requires the attendance of another, and he is daily in requirement of health-supporting measures. My opinion is that were he to return to his home in the North the nature of his bronchitis and asthma are such that they would speedily prove fatal, at least exceeding dangerous to life. From the painful existence and permanency of his disorders of wound, lameness, asthma, bronchitis, and their complications, as well as his need of support, I would earnestly recommend the case of General Washburn to your consideration.

C. S. MAY, *M. D.*

Senator Platt also indorses the statements made by Dr. May, and states that in his opinion the applicant is entitled to an increase of pension.

A. S. Warner, late surgeon Sixteenth Regiment of Connecticut Volunteers, certifies as follows:

I have examined Col. George A. Washburn, formerly major of the Sixteenth Regiment, Connecticut Volunteers, and I find he received a wound, the ball passing very near the junction of the ilium with the sacrum, passing through the pelvis, badly comminuting the ischium, a part of the ball (a triple one) passing through the scrotum and out, and a part was lodged in the left testes. I am of opinion the disability occasioned by the wound is permanent and total.

Unquestionably this soldier is eqitably entitled to an increase of pension, but as the rate of $50 is now the highest allowed for total disability, requiring constant attendance of another person, except in cases covered by the act of June 16, 1880, and inasmuch as this soldier does not require constant attendance, your committee recommend the passage of the bill with the following amendments:

Strike out, in line 6, the word "fifty" and insert "forty-five," and in line 5 strike out the word "seventeenth" and insert "sixteenth."

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1183.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 5800.]

*The Committee on Pensions, to whom was referred the bill (H. R. 5800) granting a pension to Sarah B. Jackson, have examined the same, and report:*

The facts in this case are set forth in the report of the Committee on Invalid Pensions of the House of Representatives (H. R. Report No. 1170), made during the last session, as follows:

The petitioner alleges that her husband lost his life by falling from a railroad bridge while attacked with dizziness, resulting from serious wounds received in battle in the servic eof the United States. It is in evidence that the soldier had his lower jaw shot away in the battle of Hatcher's Run, Virginia, March 31, 1865. He was discharged because of this wound. The disability was rated total, for which he was receiving at time of death a pension of $8 per month. The records show that he enlisted September 1, 1864, and was mustered in the next day as a private in Company A, Ninety-first Regiment New York Heavy Artillery Volunteers; was discharged July 27, 1865, and died September 18, 1865, up to which time he received his pension, application having been filed in August. His family, therefore, derived but little good from the pension, his death occurring soon after its allowance. The widow did not apply for pension until March 12, 1877, but it was rejected because "the injury to spine by a fall was not caused by or dependent upon wounds received in the service of the United States." The widow's affidavit gives the reason for delaying her applications for pension, as well as other facts pertinent to the case. It is as follows: That her late husband, the soldier above mentioned, was a pensioner of the United States; that he returned from the Army to their home in July, 1865, suffering from a severe wound of face, destroying the lower jaw; that, although said wound was healed over, it was very distressing, causing darting pains from the jaw to the top of the head and almost continual suffering; that owing to said wound her said husband could not eat any solid food, and in consequence she had to prepare for him and feed him with liquids from a spoon; that her said husband was before enlistment a sound, healthy man, and was not subject to fainting spells, but after his return he did at several times become unconscious and faint; said faintness was caused, as she verily believes, by the wound aforesaid and the lack of nourishment which said wound prevented him from receiving.

Deponent further says that owing to this disfigurement of face and the consequent affection of his speech, her said husband was loth to be seen upon the street or spoken to, and therefore rarely went out of the house except to attend his church or prayer meeting. That about 2 o'clock on Sunday afternoon on or about 17th of September, 1865, her said husband on his way to prayer meeting was taken with one of his fainting spells and fell from a bridge, which fall, as she verily believes, so affected his brain and other parts in sympathy with the wound of face that he was not able to rally from the additional injuries inflicted, and that his death in a few hours subsequently, viz, at 8 o'clock next morning, was entirely attributable to the wound for which her husband was pensioned.

She further states that neither she nor any of her friends were thus advised of her rights in the premises, and even if she had been, her mental condition of distress would not have enabled her at that time to have considered them; that it was only

at the late date, when her condition of need suggested to her mind by friends her rights to a pension, that she sought for the evidence requisite.

She further states that the railroad bridge from which her husband fell crossed the Mohawk River at Cohoes; that said bridge was 25 feet wide and 800 feet long and 60 feet to the bed of the river. There was on each side of the railroad track a walk about 9 feet in width. These walks were habitually used by pedestrians (as also by her husband before as well as after enlistment, on his way to and from the church) who had occasion to cross the river.

Thomas Fitzgerald testifies that he knew William B. Jackson, the deceased soldier herein referred to, since the year 1855; that he knew said soldier intimately when he entered the Army, and saw him when he returned from the Army, and frequently thereafter until his death, which occurred about September, 1865.

Deponent states of his personal knowledge that said soldier was not subject to fits or fainting spells before enlistment, and that his bodily health was good.

Deponent further states that after return from the Army, and until his death, the soldier was subject to fainting spells, which were evidently caused by the wounds from which the soldier suffered, the whole lower jaw being shot away and his condition being very much debilitated.

Matthew C. Cook testifies that he knew the deceased soldier, William B. Jackson, referred to. He saw him fall from the bridge across the Mohawk River, at Cohoes. Said bridge was a common thoroughfare, and was used by said Jackson habitually on his way to prayer meeting, and was so being used when he fell. He helped to pick said Jackson up, and saw that he was badly hurt. He stated to him that he was taken with a dizziness which caused his fall. He has been told by said Jackson's wife and others that his wound caused him to be faint at times, and he believes said wound received in the Army was the cause of the dizziness producing the fall, and of which he subsequently died.

Your committee verily believe that the wound received in the service was the true causation of the soldier's death. The evidence that he was a sound man, and not subject to dizziness prior to enlistment, and that subsequent to receiving his wound he was frequently attacked with vertigo and frequently fell, is amply proven. He was an honest, upright, sober man, and it is not difficult to conclude that his death is referable to his Army disability. Believing this, the committee recommend the passage of the bill.

It appears by affidavit made in 1880 that both of the physicians who attended the claimant's husband after his fall were dead at that time, so that no further or explanatory evidence could be obtained from them.

Upon appeal in 1880 the case was rejected on the ground that the evidence did not show "conclusively" that the deceased was subject to fits, or if he was that they were due to or the result of his wound.

Augusta Scott swears she saw deceased when he fell from the bridge, "that just before falling said Jackson reeled or staggered as though suffering from dizziness or vertigo, that he tried to recover himself, and then fell from said bridge, which caused his death."

Dr. W. Van Steenberg, the surgeon who attended deceased, swears that Jackson after receiving said wound was subject to attacks of vertigo, causing blindness and fainting; that he verily believes said wound was the direct and immediate cause of such attacks of vertigo and blindness and fainting, and the cause of the accident which resulted in death. In a second affidavit he swears he attended Jackson till he died; that Jackson told him that from the time of his injury he had "fainting fits," and it was in one of these that he fell; "that Jackson said these fits were caused by his wound, and to the best of my knowledge they were."

There are papers in the case to show that Dr. Van Steenberg's moral and professional standing is good.

Rev. C. A. Waldron, who buried the deceased, says, in a letter of November 17, 1881:

I recollect his coming back from the war in a disabled condition, *subject to fainting spells*, and which was the cause of his falling from the bridge. There is no question as to the validity of the widow's claim.

J. H. Masten, the postmaster at Cohoes, has written several letters stating the facts,

That before enlistment he was a sound, healthy man, but after he came back he was *subject to fainting fits* and loss of memory.

He says:

It is well known by those best acquainted with Jackson that his illness, which occasioned what resembled epileptic fits (in one of which he fell from the bridge, receiving injuries from which he died), was the direct result of his wound. I have not the slightest personal interest in the matter, but think a great injustice has been done a very worthy and conscientious widow, who is poor and deserving of a pension, considering the circumstances of her husband's death.

Jackson died about six weeks after his discharge.

In view of this evidence and all the circumstances in the case, your committee concur in the report of the House committee, and recommend the passage of the bill.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1184.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 4248.]

*The Committee on Pensions, to whom was referred the bill (H. R. 4248) granting a pension to William Harbeson, have examined the same, and report:*

The facts are briefly stated in the report of the House Committee on Invalid Pensions (House Report No. 1152), as follows:

William Harbeson enlisted August 8, 1861, as a private in Company G, Sixth Regiment Pennsylvania Cavalry. About November, 1863, while in the line of duty, going into camp at Mitchell's Station, his horse reared up and fell backward, throwing Mr. Harbeson under him, hurting him so badly that he had to be led into camp; a doctor was called in, and Harbeson was unfit for duty for some time. The above is testified to by a comrade, though there is no record of such medical attendance and disability. The testimony also shows that he was a sound man before entering the Army. After the accident he served out his time; but the testimony shows that from date of accident he always complained of his injuries, though they did not reach the point where medical aid was summoned till in 1872. The injury culminated in a chronic inflammation of the spinal cord and partial paralysis of the limbs.

The committee therefore recommend that the bill do pass.

As explanatory of the fact that there is no record of this disability in the service, it appears from the certificate filed that there are no records of claimant's regiment on file in the Surgeon-General's Office prior to 1865. The claimant also swears that he cannot ascertain the whereabouts of a commissioned officer of the company or regiment to which he was attached, and that the regimental surgeon was killed; that immediately after his discharge he was too poor to employ a physician.

Two comrades swear to the incurrence of the injury, and that up to that time the soldier was a sound man, but that ever since he has complained, and has become unfit to work by reason of such injuries.

The case was rejected in the Pension Office for want of record evidence of the treatment of the injury and treatment in service.

The examining surgeon reports that the disability did certainly originate in the service and says:

The applicant was injured by his horse falling on him and injuring his spine. There is evidently disease of the spinal cord, the result of the concussion at the time of the fall. He is now suffering with nervous prostration, his gait is unsteady, he is suffering pain at all times, and is very much debilitated; is not able to do any manual labor for the last twelve years. The injury was severe at the time. I would recommend total, or $8 a month.

In view of all the facts, your committee recommend the passage of the bill.

PAGE NOT ORIGINAL

48TH CONGRESS, 2d Session. } SENATE. { REPORT. No. 1185.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 7295.]

*The Committee on Pensions, to whom was referred the bill (H. R. 7295) granting a pension to Albert D. Simmons, have examined the same, and report:*

The facts in this case are set forth in the report of the House Committee on Invalid Pensions (H. R. Report No. 2288) as follows:

That the evidence in this case clearly establishes the sound physical condition of the soldier at the time of enlistment and down to the Peninsular campaign, in the summer of 1862. That while laying at Harrison's Landing he contracted rheumatism, from which he suffered more or less during his entire term of service. That he was captured with several of his comrades in September, 1864, and taken to Salisbury, N. C., where, in addition to severe suffering from rheumatism, he was attacked with diarrhea, both together rendering him helpless. He furnishes the testimony of a comrade who was his companion in prison, and who states that he knew of his helpless condition, that he attended him in his helplessness, heard him complain of his trouble from piles, administered such medicine as could be procured, and went home with him when paroled. That after reaching Wellsborough, a short distance from home, he was unable to proceed farther, and remained several days in charge of a doctor, by the name of Johnson, before he could be moved. That after reaching home he still remained under the doctor's care for some time, but at the end of his furlough was sufficiently recovered to return to his command, but was not able to reach his regiment before its discharge. This was in the spring of 1865, after the surrender of Lee, and he was himself discharged, though not with his regiment.

The main reason for rejection, it appears, was the fact that Dr. Johnson, who attended the soldier in the winter and spring of 1865, refused to state that he was afflicted at that time with any disease except diarrhea. But it appears from the testimony of Dr. Humphry, who was assistant surgeon of the regiment, and treated him for rheumatism at Harrison's Landing, who swears that upon examination of the soldier, as late as 1881, he finds him still "suffering with atrophy of the muscles of the hip and upper third of the right thigh"; and Dr. Brown, examining surgeon, in March, 1882, certifies to the same difficulty. Besides, it appears from the testimony that there has been existing some enmity between Dr. Johnson and the soldier, so that the former refused to testify at all and only makes known his view of the case by a letter sent the Commissioner of Pensions.

After careful review of the case, and taking into account the great suffering endured by the claimant while in prison, and his disability since, the committee report favorably, and recommend the passage of the bill.

In his letter transmitting the papers in this case, the Commissioner of Pensions states that the claim was rejected "on the ground that the records of the Department fail to show the existence of the alleged disabilities in the service, and the applicant, though afforded the benefit of a special examination, has failed to establish origin of same in the service."

A careful examination of the reports of the special examiners will not, however, sustain this statement. The first examination was made in April, 1883, and the examiner reported his conclusion as follows:

From my examination of the claimant and his witnesses thus far, I am not en abled to express a positive opinion as to the merits or demerits of the claim, yet, from the good standing of the claimant and his witnesses, it seems a pension ought to be granted to him if further examination should develop origin and treatment in service, and continuous disability from discharge up to 1873.

In accordance with this recommendation, another special examiner visited the locality in August, 1883, and reported his conclusion as follows:

In view of all the testimony in the case, I am of opinion that claimant has been to some extent disabled by reason of the rheumatism in right hip and leg, and would therefore recommend that his claim be admitted.

Your committee concur in this recommendation, and therefore report back the bill, with a recommendation that it do pass.

C

'TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1186.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

r. MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 6934.]

*'he Committee on Pensions, to whom was referred the bill (H. R. 6934) granting a pension to Ann J. Williams, have examined the same, and report:*

The facts are set forth in the report of the Committee on Invalid 'ensions, of the House of Representatives (H. R. Report No. 1717), ıade during the last session, as follows:

The claimant asks a pension as the mother of Ebenezer Williams, late a private ı Company A, First Battery, Nevada Infantry, in the war of the rebellion, who died ı the service.

The Adjutant-General United States Army reports, "that Ebenezer Williams, pri- ıte Company A, First Battery, Nevada Infantry, died at Camp Susan, Cal., Sep- ımber 12, 1864, of chronic diarrhea." Claimant states in her affidavit that she was ›pendent on her said son for support at the time of his death.

The affidavits of Orrin Frink, merchant, residing in Scranton, Pa., and John C. 'ells, merchant, of Wilkes Barre, Pa., state that said Ebenezer Williams sent money › his mother from time to time and that she purchased goods from them with it.

The claimant, Mrs. Williams, gave two sons to the Government—Ebenezer, who ed in the service, as above stated, and Reuben, who was killed in battle at Atlanta, a. She is now seventy-four years of age, in an enfeebled and almost helpless con- tion, and dependent on the charity of friends. She has one son living with her at ›r home in Pittston, Pa. This son is a poor, helpless cripple. Her claim was rejected ' the Pension Department on the ground that she was not, at the time of her son's ıath, wholly dependent on him for support.

Your committee are satisfied that she is now dependent and needy, without any ɜans of support, and that her name should be placed on the pension list. They erefore recommend the passage of the bill.

This lady appeared in person at this committee room. She lost two ›ns in the late war. She is aged, infirm, and unquestionably at this me and for years past has been without any property or means of her vn for support. Her late husband was intemperate, and her son Eb- ıezer did undoubtedly contribute of his Army pay for her support hile he was in the service. It is true that the husband was earning ›od wages at the time of this son's death, but he was a slave to ink, and he died in 1875, leaving this widow in poverty.

There is conflicting evidence as to dependence at the soldier's death, ›ich, under the strict rulings of the Pension Office, left the case with- t adequate proof, but from all the evidence in the case your com- ttee conclude that the mother is equitably entitled to a pension, and erefore recommend the passage of the bill.

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48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1187.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Territories, submitted the following

# REPORT:

[To accompany bill H. R. 3058.]

*The Committee on Territories, to whom was referred the bill (H. R. 3058) to amend section 1889 of chapter 1, title 23, of the Revised Statutes of the United States, relative to general incorporation acts of Territories, have examined the same, and respectfully report:*

That the bill proposes to add to the purposes for which corporations may be organized under general incorporation acts by the legislative assemblies of the several Territories those formed for banking purposes and for the construction and operation of canals. The bill as printed changes the present statute by inserting the word "banking," in line 10; by substituting the word "and" for "or," in line 11, between the words "construction" and "operation"; and by inserting the words "canals, or," in line 12.

We see no objection to the proposed amendments, and therefore recommend the passage of the bill.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1188.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 7, 1885.—Ordered to be printed.

Mr. MILLER, of California, from the Committee on Foreign Relations, submitted the following

# REPORT:

[To accompany concurrent resolution.]

The Committee on Foreign Relations, in submitting the resolution to authorize and request the President to "communicate to the Governments of all nations in diplomatic relations with the United States the resolutions adopted by the International Conference held at Washington in October, 1884, for the purpose of fixing a prime meridian and a universal day, and to invite their accession to the same," beg leave to ask the attention of the Senate to the following statement, viz:

By an act of Congress approved August 3, 1882, the President of the United States was authorized and requested to call an International Conference to fix on and recommend for universal adoption a common prime meridian to be used in the reckoning of longitude and in the regulation of time throughout the world. In pursuance of the object sought to be attained by this act, the Secretary of State, in a circular note dated October 23, 1882, inquired of the several Governments of foreign states whether they would be disposed to take part in such a conference if invited thereto, to which inquiry a favorable answer was returned in the majority of cases, and the formal invitation of the President to send delegates to an International Conference to meet at Washington on October 1, 1884, "for the purpose of discussing and if possible fixing upon a meridian proper to be employed as a common zero of longitude and standard of time reckoning throughout the globe," was communicated to the several foreign Governments with which the United States maintain relations, by means of a circular note dated December 1, 1883, and issued by the Secretary of State.

In response to this invitation, delegates appointed on behalf of Austria-Hungary, Brazil, Chili, Colombia, Costa Rica, France, Germany, Great Britain, Guatemala, Hawaii, Italy, Japan, Liberia, Mexico, Netherlands, Paraguay, Russia, San Domingo, San Salvador, Spain, Sweden, Switzerland, Turkey, Venezuela, and the United States of America, met in Washington on the 1st of October, 1884, in conference, for the purposes set forth in the said invitation; and after discussing and considering the subject in several conferences, adopted, on the 22d of October, 1884, certain resolutions reciting the conclusions they had reached. On the day last named the Conference referred to unanimously adopted the following resolution, viz:

That a copy of the resolutions passed by this Conference shall be communicated to the Government of the United States of America, at whose instance and within whose territory the Conference has been convened.

The said resolutions have been communicated to Congress by the President, together with the record of the proceedings of the Conference.

The committee desire to submit, also, the following letter from the Secretary of State for consideration in this connection, viz:

DEPARTMENT OF STATE,
*Washington, February* 5, 1885.

SIR: Permit me to recall to your attention the subject of the late Prime Meridian Conference held in October last, of which the full protocols, in French and English, were transmitted to Congress by the President on the 4th of December last and printed as House Ex. Doc. No. 14.

It will be seen by a perusal of the final act of that Conference (Doc. cit., pp. 111-113) that its conclusions were embodied in a series of abstract recommendations or resolutions, seven in number, only one of which makes any proposal to the Governments represented. The sense of the Conference was, in fact, that no general proposal should be made by it to the Governments represented, but that the initiative should be left to the Government of the United States, which had called the Conference.

I have had the honor to consult with the President on this subject, and he is of the opinion that in his annual message, and in communicating to Congress the record of the Conference, he had done all that is necessary to bring the matter again within the jurisdiction of Congress (where the project originated), and that it is open to that body to signify its wish as to whether the conclusions reached by the Conference shall be brought by this Government formally to the notice of the other Governments, with an invitation to adopt them for universal use by means of a general international convention to that end.

The accompanying draft of a joint resolution in this sense is submitted for the consideration of your committee.

I have the honor to be, sir, your obedient servant,

FRED'K T. FRELINGHUYSEN.

HON. JOHN F. MILLER,
*Chairman Committee on Foreign Relations, Senate.*

The committee recommend the adoption of the resolution.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1189.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 7, 1885.—Ordered to be printed.

Mr. PLATT, from the Committee on Patents, submitted the following

# REPORT:

[To accompany bill S. 2585.]

*The Committee on Patents, to whom was referred the bill (S. 2585) for the relief of James A. Bonsack, having had the same under consideration, make the following report:*

In the year 1880, Mr. James A. Bonsack, a citizen of the United States and the State of Virginia, invented a cigarette machine, the essential features of which are, first, a mechanism for carding and distributing the tobacco and feeding it in uniform quantities to a filler forming mechanism. Secondly, a filler-forming mechanism, by means of which the loose tobacco is formed into a continuous rod or filler for a cigarette preparatory to receiving the paper covering. Thirdly, a folding tube for the purpose of enveloping the continuous tobacco rod or filler with a like continuous paper covering. Fourthly, a mechanism for applying the paste to one edge of the paper covering preparatory to sealing the same. And, fifthly, a cutting mechanism for the purpose of severing the continuously formed cigarette into convenient lengths. On the 4th day of September, 1880, Mr. Bonsack filed an application in the United States Patent Office praying that a patent be granted him for his improved cigarette machine, and a patent was issued to Mr. Bonsack thereon for the full term of seventeen years from the 8th day of March, 1881. After filing his case in the United States Patent Office, Mr. Bonsack filed his application in the Canadian patent office, at Ottawa, praying that a patent be issued to him by the Canadian Government for the term of five years for substantially the same subject matter as that embraced in his United States application, and a patent was accordingly issued to Mr. Bonsack by the Canadian Government on the 23d day of September, 1880. It will thus be seen that, although Mr. Bonsack made his application for a patent on his improved cigarette machine prior to making application therefor in Canada, yet nevertheless his Canadian patent issued before his United States patent.

On June 21, 1881, Mr. Bonsack having made some improvements in his machine, as illustrated and described in his previous patent, especially the filler-forming and cutting mechanism, filed his second application in the United States Patent Office, praying that a patent be granted him for said improvement, and a patent was accordingly issued to him for said improvement on the 4th day of October, 1881. After filing his application for a patent on the improvements above referred to, but before the issuing of his said patent, Mr. Bonsack filed his second application in the Canadian patent office, praying that he be granted a Can-

adian patent for substantially the same subject-matter covered by his second previously-filed United States application, and a patent was issued to him on said application on the 16th day of July, 1881, which was prior to the issuing of his second patent in the United States, which did not issue till the 4th day of October following, as above stated.

Section 4887 of the Revised Statutes provides that "No person shall be debarred from receiving a patent for his invention or discovery, nor shall any patent be declared invalid by reason of its having been first patented or caused to be patented in a foreign country, unless the same has been introduced into public use in the United States for more than two years prior to the application. But every patent granted for an invention which has been previously patented in a foreign country shall be so limited as to expire at the same time with the foreign patent, or if there be more than one at the same time with the one having the shortest term, and in no case shall it be in force for more than seventeen years."

It will be seen that by the strict letter of the law, as set forth in the section above referred to, both of Mr. Bonsack's United States patents, though being upon their face valid grants for the full term of seventeen years, would nevertheless be limited by operation of law to the term of five years, the time for which the Canadian patents were taken. Up to the time that Mr. Bonsack applied for his United States patents, September, 1880, and June, 1881, the 4887th section of the Revised Statutes had not received a judicial interpretation in the courts, but the Commissioner of Patents on the 6th day of February, 1880, the very year in which Mr. Bonsack made his first application, and prior thereto, did render a decision involving an interpretation of the 4887th section of the Revised Statutes in *Ex parte* Mann, O. G., p. 330. (See also Decisions of the Commissioner of Patents, 1880, p. 57.) The Commissioner then decided that a foreign patent granted after the patentee had filed his American application, but before he obtained his American patent, did not limit it to the term of the foreign patent, and it was not until August, 1882, nearly a year after Mr. Bonsack obtained his second United States patent, that this decision of Commissioner Payne was overruled by Judge Nixon in the case of Bate Refrigerating Company *vs.* Gillett in the United States circuit court for the district of New Jersey.

Thus it will be seen that it was hardly in human wisdom for Mr. Bonsack to have arrived at any different conclusion than that on which he acted, desiring as he did to secure his United States patents first, but at the same time protect his interests abroad. He had every reason to suppose that his home patents, being applied for prior to his foreign patents, would not be limited to the shorter term for which the latter might be granted.

But the hardships of this case do not end here. The patents were, in fact, grants upon their face for an exclusive property in all the rights, privileges, and benefits conveyed thereby for the full term of seventeen years, and not for five, and Mr. Bonsack not suspecting they were not valid grants for the full term indicated upon their face, not only spent large sums of money in developing and perfecting his invention, but, after exhausting his individual resources, he took what he had done to show the feasibility of his plan and the patents which he had obtained, and thereby induced others to invest in the enterprise, which, it is useless to say, they would never have done if these patents had disclosed upon their face the fact that they had but a year or two to run. These parties, having organized a company known by the corporate title of "The

Bonsack Machine Co.," have invested a large amount of capital and spent much time in organizing their business, all of which must prove an irreparable loss should the term of Mr. Bonsack's first two United States patents be allowed to lapse at the expiration of the time for which his Canadian patents were taken. His Canadian patents can be renewed for five or ten years longer, but that will not operate to extend his United States patents. They will still wholly determine at the expiration of the five years for which his Canadian patents were first taken.

Patents for substantially the same inventions have been issued to Mr. Bonsack in other foreign countries, the forfeiture of which may also limit the terms of his patents in this country.

In Mr. Bonsack's case no adverse interests have yet been acquired, as he has made haste to apply for relief as soon as he discovered the danger which threatened the life of his patents.

And herein is manifest the importance of having a bill passed at this session of Congress for his relief, lest, before another Congress meets, parties acting on the limitation of Mr. Bonsack's patents may acquire adverse rights and incur expense. Up to this time neither the inventor nor the "Bonsack Machine Company" have derived any profit from his valuable inventions, all the proceeds and much more having been spent in preparation for their general introduction and use.

In view of the facts, the committee recommends the passage of this bill.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1190.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 7, 1885.—Ordered to be printed.

Mr. PENDLETON, from the Committee on Foreign Relations, submitted the following

# REPORT:

[To accompany bill H. R. 1004.]

The Committee on Foreign Relations, to whom was referred H. R. 1004, having considered the same, beg leave to report it back with the recommendation that it do pass, submitting the following report made by the Committee on Foreign Affairs to the House of Representatives, March 22, 1884:

[House Report No. 970, Forty-eighth Congress, first session.]

*The Committee on Foreign Affairs, to whom were referred the bills (H. R. No. 1004) in relation to the Chinese indemnity fund, and (H. R. 3766) in relation to the Caldera claims against that fund, have carefully considered the same, and submit the following report:*

Between the years 1844 and 1858 numerous losses were sustained by American residents of China by reason of the destruction of their property through the acts of lawless bands of Chinese; the greatest number and the heaviest losses occurring after the year 1850, when the powerful revolt known as the Taeping rebellion broke out, which continued to render the power of the central Government nugatory in a large section of the country for a number of years.

In 1858 these losses were scheduled by the United States minister in China, and a demand was made by him upon the Chinese Government for their payment. After some delay, and a reduction of the amount demanded to 500,000 taels ($735,258.97), a treaty was concluded between the two Governments providing for the payment of this sum from the customs receipts at the three principal open ports of the Chinese Empire.

Under the provisions of an act of Congress two commissioners were appointed to adjust the claims and award such sums as might be found to be justly due, their decisions to be final.

The commissioners appointed were both at the time residents of China, and familiar with all the circumstances under which the claims arose.

They met at Macao, in China, November 18, 1859, and concluded their labors on the 13th day of January, 1860.

Upon examination all the claims were found to be more or less exaggerated, and some to be entirely groundless; while others were presented by persons not citizens of the United States.

After paying all the claims to the apparent satisfaction of the claimants—no protest being filed in any case—with interest for five years at the rate of 12 per cent. per annum, there remained a surplus of more than one-third of the gross sum received from China.

As the money was paid upon the representations of the United States Government that it was required to cover losses arising from the destruction of private property of Americans resident in China which occurred prior to 1858, and as the terms of the treaty expressly specified that it was to be applied to that purpose, it followed as a matter of right and justice that the surplus should have been returned to China as soon as its amount had been ascertained. This course was recommended by President Buchanan, and has been repeatedly urged by every succeeding Executive, including President Arthur, yet no conclusive action has been taken by Congress to carry these recommendations into effect.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1190.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 7, 1885.—Ordered to be printed.

Mr. PENDLETON, from the Committee on Foreign Relations, submitted the following

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In consequence of this inaction on the part of Congress, the Secretary of State was constrained to direct the money to be sent to the United States for safe-keeping, and it was deposited in the vaults of the State Department.

In the exigency of the stringent money market during the civil war the money was used by the United States Government, and bonds of the Government were deposited with the Secretary of State to represent it.

The facts, as here outlined, clearly show that this "fund," which is still in the custody of the Secretary of State in the form of United States bonds, should be returned to the Chinese Government without further delay.

The fund having always been regarded and treated as the property of China—as it manifestly is—any increase in the nature of earnings which may have accrued during the pendency of its return attaches to the principal under the clearest construction of law and the simplest rules of justice and equity.

The question presented by the bill H. R. 3766 is the claim of the owners and insurers of the bark Caldera, pillaged and destroyed by Chinese pirates in October, 1854, to five years' interest, at the rate of 12 per cent. per annum on the 60 per cent of their original claim, which was disallowed by the Board of Commissioners in making their awards, with interest thereon at the rate of 5 per cent. per annum from January 26, 1860, to date.

After a careful review of all the evidence in this case the committee find, from the protest of the master of the Caldera, filed with the French consul at Hong-Kong immediately after the occurrence, and from other conclusive testimony, that the bark encountered a severe typhoon on her first day out from Hong-Kong bound for San Francisco with a cargo of tea; that the sails were "torn into shreds," and the vessel was so severely strained by the force of the gale and the heavy sea that she leaked very badly, necessitating the constant working of the pumps to keep her free; that after driving before the gale for two days she grounded while endeavoring to take shelter in a bay on the coast of the Five Islands, suffering considerable damage to her hull. After working off the bar upon which she had struck she anchored in the bay, the men being kept continually at work at the pumps to keep the water in the hold from gaining upon them. That while thus engaged the crew were surprised and overpowered by Chinese pirates and the cargo plundered; that at that time there was four feet of water in the hold, immersing about one-third of the cargo; that the vessel proved a total loss, and a large part of the cargo was carried away by the pirates. That upon being informed of this outrage the Chinese Government sent several war junks, in conjunction with war vessels of foreign powers, and dispersed the pirates, recovering a small portion of the stolen property. That both the hull of the vessel and her cargo had been seriously damaged by the elements and her rigging almost totally destroyed before she entered the harbor where the robbery was committed is placed beyond all question by the testimony of the master of the Caldera and others.

In considering this case the Board of Commissioners in China had recourse to the aid of experts, who testified as to the amount of damage sustained previous to the piratical attack, and reached the conclusion that it was 60 per cent., of the first cost, and they therefore allowed 40 per cent. of the claims, with five years' interest at the rate of 12 per cent. per annum, making a sum equal to two-thirds of the gross amount of the claim without interest.

As the rate of interest which prevailed in China at that time was 5 per cent., that rate should have controlled the commissioners in making their awards. By disregarding this rule, which governs all judicial tribunals, they actually gave to the claimants about 50 per cent. of their claims, with the lawful rate of 5 per cent. interest per annum for the five years contemplated in the awards, leaving but about 50 per cent. unpaid.

Under authority of an act of Congress approved June 19, 1878, the United States Court of Claims reviewed the Caldera claims and awarded to the claimants the disallowed 60 per cent., with interest thereon at 5 per cent. per annum from January 26, 1860, to the date of the findings of the court, amounting to $113,077.11, and that award was paid by the Secretary of State.

As the total amount of these claims, presented and scheduled by the United States minister in China, was but $90,009.60, they have been paid to date a sum about equal to the full amount of their entire claim, with 5 per cent. interest from the date of the loss to the date of the final payment made by the Secretary of State. This makes no deduction whatever for the damage previously done to the vessel by the elements, which, from the testimony adduced before the Board of Commissioners, was about 15 per cent. of her first cost, nor for the value of the portion of the cargo recovered, amounting to several thousand dollars.

The sum awarded by China was, in gross, to cover an entire list of claims, and the Court of Claims was right in finding for 60 per cent. of the claim with simple interest, instead of 60 per cent. with the interest prior to the payment of the fund compounded.

In view of all these facts, the committee are of the opinion that these claimants have been paid every dollar to which they can possibly lay claim, and more than the merits of the case seem to have demanded.

To summarize, the United States Government, in making a statement of account against China, overcharged that Government nearly 100 per cent. through inadvertence. This excess, with its earnings, while withheld from China, should be returned forthwith.

The Caldera claimants have received their utmost equitable demands.

The sum received from China under the provisions of the treaty was $735,238.97. After paying all the claims there remained $239,165.77, in gold, which, when transferred to the United States and deposited in the State Department, yielded the sum of $390,223.72. This fund has been invested in United States securities, and at this time, with interest at the rate of 5 per cent. per annum added, amounts to $583,400.90, after having paid from it the Caldera claims, awarded by the Court of Claims.

The Secretary of State, writing to the chairman of the subcommittee under date of March 18, 1884, in answer to an inquiry, says: "The Department of State knows of no just claim against this fund."

The excess having been, in reality, the property of China from the day of its payment into the hands of the United States, by every rule of justice, whatever it may have earned while in the custody of the Government of the United States, is also the property of China by the strictest construction of law.

The committee therefore report the bill H. R. 3766 adversely, and recommend that it lie upon the table; and the bill H. R. 1004 favorably, with an amendment, and recommend its passage.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1191.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 7, 1885.—Ordered to be printed.

Mr. MAHONE, from the Committee on Public Buildings and Grounds, submitted the following

# REPORT:

[To accompany bill S. 2617.]

The Committee on Public Buildings and Grounds have had under consideration the selection of a site for, and the construction of, a suitable building for a post-office in the city of Washington, D. C., and report in support of the bill they offer covering the subject:

I. That the need for such a public building is immediate, and by every consideration is demanded. The poor, unhealthy, and insufficient accommodations of the present rented building for the purpose and the termination of the lease of the same all combine to urge action upon the subject.

The rapid growth of the city and the improved character and style of the private residences and business houses which strikingly mark the progress and adorn every street and avenue of the city are more than suggestive of a public duty in this respect.

Here, at the capital of the nation, it would seem fittingly incumbent upon the Government to give tone, inspiration, and direction, by example, to architecture.

II. That in view of our improved and improving postal service, and the system by which no one resident of any city, where carriers are employed, need scarcely to visit the post-office, the question of location is no longer of paramount consideration.

III. That, considering the singular relations of the city post-office in the discharge of its functions, in respect to the dead-letter business, with the Post-Office Department, and in view of the long standing and rapidly growing demand for greatly increased accommodations there, as urgently set out by the present head of that Department, and as well by several of the Postmasters-General who have preceded him, and of the sufficient fitness of the location for the city post-office, the admitted necessity for an enlargement of the Post-Office Department building, which cannot much longer be deferred, the purchase now of the square No. 406, corner of F and Eighth streets, is the step to be taken.

The acquisition of this square, which contains 60,000 square feet, would enable the Government to close and include that portion of Eighth street lying between it and the square on which the present Department building stands, and would add 25,000 square feet more available ground, and secure an even frontage on F street with that of the Interior Department building. It is not believed that any site of sufficient ground for a building suitable to the purpose equally eligible in respect to location can be had for any price relatively so favorable.

The Post-Office Department is now paying an annual rental of $9,500 for outside buildings, for one on square No. 406, included in the proposed purchase, $8,000, and for the city post-office a rental of $5,000, the lease of which expired December 15, 1884.

The Le Droit Building, covered by the purchase, would, it is believed, quite well answer all the purposes of a city post-office during the construction of such enlargement of the Post-Office Department building (covering suitable provision for the city post-office), as may now be demanded by the confined and overcrowded affairs of that Department, all in conformity with such general plan for the extension and enlargement of the Post-Office Department building as shall comprehend the future growth, orderly and efficient conduct of the business of that Department of the Government.

IV. That at a cost of $640,000 you acquire a piece of property which it is admitted the Government must have at no distant day, and at a cost now much below any figure the future is most likely to fix as the fair price for square 406. The Government at once saves a rental of $14,500, and secures, without further cost for rent, sufficient and better accommodations than can be had elsewhere for the city post-office during the time which would be taken any where for the construction of a building for that purpose.

Besides the saving of $14,500, the Government would derive a rental of $21,740 from the remaining property of the square, exclusive of that valued at $38,000, which pays no rent. This, added to the saving of $14,5000, would be equivalent to an income of $32,240 per annum, equal to full 5 per cent. upon the investment, the entire cost of the square.

The property of the square, exclusive of that which pays no rent, now yields an income of $43,240.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1192.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. SHERMAN, from the Committee on Finance, submitted the following

# REPORT:

[To accompany bill H. R. 7496.]

The Committee on Finance, to which was referred the bill (H. R. 7496) entitled "An act for the relief of Wehrle Werk & Son," begs leave to report said bill favorably, for the reasons stated in the annexed House report:

*The Committee on Ways and Means, to whom was referred the petition of Wehrle Werk & Son, of Ottawa County, Ohio, for abatement of an internal-revenue tax, submit the following report:*

In 1875 Wehrle Werk & Son were engaged in the business of fruit distillers at Middlebass Island, Ottawa County, Ohio, and in the tenth internal-revenue district of said State. On the 22d of June, 1876, said firm was assessed an internal-revenue tax of $583.37 upon a deficiency in the production of distilled spirits for the month of June, 1875, which they allege was erroneous and unjust.

In the survey of the fruit-distillery of said firm, made on January 2, 1875, the brandy-producing capacity thereof from sour wine in twenty-four hours was placed at 373.55 proof gallons, and the number of gallons of sour wine required to produce one gallon of proof brandy was stated to be 5.35. Said survey also stated the number of boilings capable of being made in twenty-four hours to be nine. This was the survey under which the distillery was run at the time the deficiency occurred, upon which the tax sought to be abated was placed.

This survey was erroneous. The Commissioner of Internal revenue, in a letter of February 4, 1879, to Hon. Charles Foster, says:

"It would be more in harmony with the surveys in other districts if the number of boilings were reduced to seven, and the quantity of sour wine required for a gallon of spirits increased to seven gallons. If the survey had been so made the daily producing capacity for sour wine would be 219.97 gallons, instead of 373.53 gallons.

"The Commissioner recommends relief for petitioners from $461.87 of said tax."

Your committee find that petitioners had never distilled brandy from wine before the survey was made, and had no means of knowing that the survey was erroneous until actual experiment. They ran the still for fifty-one hours only, and as soon as the error was discovered reported the product to the proper officers and paid the tax as assessed.

The committee find that there was no neglect on the part of the petitioners in this connection, and recommend the passage of the accompanying bill.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1193.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. SLATER, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 1877.]

*The Committee on Pensions, to whom was referred the bill (S. 1877) granting an increase of pension to John Hall, have examined the same, and report that—*

The claimant was a private in Company B, Tenth New York Volunteers, and was injured on the 10th day of May, 1847, while in the service and in line of duty. While on drill at or near Fort Hamilton, N. Y., in crossing a fence he was suddenly and violently thrown down and the end of a rail striking him in the lower part of the body caused a large rupture which required a severe surgical operation to save his life, which was in imminent peril from the injury. The injury resulted in double inguinal hernia. The proof of the injury, surgical operation, and resulting hernia is clear and convincing. He was discharged on account of this injury and disability the 24th day of July, 1847. He applied for a pension and was placed on the pension-roll in 1847 at $4 per month, and in 1852 his pension was increased to $8, which rate he has been since paid and is now receiving. In 1853 he became totally blind, and in 1874 suffered a paralytic stroke, since when he has been a great charge upon his aged wife and two daughters, being unable to dress or undress himself without assistance.

In 1883 he made an application for an increase on account of an increase of his disabilities, claiming that his lost eyesight and paralysis resulted from his original injuries. The medical referee gave it as his opinion that the blindess and paralysis were not the results of the original injury. It cannot be expected that laymen will usually oppose their opinions or views against the opinions of medical men, but in this case the evidence is so clear, and the fact that the neuralgia which terminated in blindness was connected with the surgical operation so distinctly shown, that your committee can hardly doubt that the medical referee in this instance is mistaken.

The surgeon performing the operation says in his certificate under date of the 13th July, 1847, that the injury rendered "an operation necessary for strangulated hernia which was performed by myself; the injury and consequent operation have been followed by debility and lameness which still continues." The claimant in his own affidavit says in speaking of the operation that—

> He had to lay while undergoing treatment * * * with his head and shoulders much lower than the rest of his body, in which position he remained for 30 days. * * * Neuralgia set in, and on being released from this position his eyes were affected, and he suffered from neuralgia to the present time.

This was in 1883. He also says that the "neuralgia pains burst his eyeballs, and the aqueous humor of the eyes escaped, leaving him blind." He also says that after the operation he frequently felt a numbness in his limbs and side and want of nerve sensibility, and was at times almost deprived of motive power, which continued up to 1874, when he had a severe stroke of paralysis. From these facts your committee are constrained to believe that the blindness and paralysis of this soldier were resulting conditions from the original injury he received and the operation he was compelled to undergo, and think that justice requires that his pension should be increased. Therefore your committee recommend the passage of this bill.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1194.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. SLATER, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 1739.]

*The Committee on Pensions, to whom was referred the bill (S. 1739) granting a pension to the widow of Byrom Pitney, have examined the same, and report:*

That Anna M. Pitney is the widow of Byrom Pitney, who was a private in Company K, Twenty-sixth New York Volunteers; was enrolled May 16, 1861; mustered out May 24, 1863; re-enlisted June 1, 1863, for three years in Company B, Fifteenth New York Cavalry, and is reported present on rolls to August 31, 1864; September and October, 1864, absent, "deserted at Cumberland, Md., October 30, 1864." Subsequent rolls to April 30, 1865, show him present. Transferred to Company B, Second New York Provisional Cavalry, and reported present on roll for May and June, 1865. Muster-out rolls, August 9, 1865, report him deserted from Washington July 5, 1865. Soldier was reported in hospital, wounded, from October 3, 1862, to April 10, 1863. Was married September 19, 1874.

The soldier died February 23, 1883, of acute pneumonia. His attending physician says he—

Had occasion to prescribe for the soldier quite frequently for about six years prior to his death, his greatest trouble being weakness, with pain and distress through his back and shoulders, in which he had been wounded. This disability, with rheumatism in other parts, occasioned him loss of much time.

He was also afflicted with chronic bronchitis of long standing, the origin of which he did not know. The cause of his death was acute pneumonia, which affiant believes was caused primarily by the broken condition of his constitution, resulting from exposure in the service.

The widow applied for pension, and in her general affidavit says that—

Ever since their marriage the soldier had frequent violent attacks of rheumatism, and suffered greatly from pains in his back and shoulders, in which he had been wounded, which often confined him to his bed and prevented him from labor. He also suffered from malaria and general debility. Was informed that immediately after his return from the Army he had a severe attack of rheumatism, requiring medical treatment for three months, for which he was treated by Drs. Sayer and Downs, now both dead.

She also says she was unable to furnish other evidence of the condition of soldier during and after service.

The hospital record shows that—

Soldier was received at Howard Government Hospital, Washington, D. C., December 23, 1862, with gunshot wound of back. Ball penetrated the muscles of the back immediately below the right edge of the eighth scapula. The ball was extracted about

an inch to the left of the vertebra. Gangrene set in. The application of nitric acid was made, when the wound again assumed a healthy condition, and healed entirely. * * * Wounded December 13, 1862, at Fredricksburg. Name of soldier not borne on list of casualties at Fredericksburg, Va., December 11-13, 1862. No hospital records of Twenty-sixth New York Volunteers were ever filed in the office.

There was no other evidence as to the origin of the disease with which the soldier died, or connecting it with the service, before the Pension Office.

It is fair to assume that the first charge of desertion was explained by the soldier, or the record would have not shown that he was again present doing duty; and it is likely that the last charge of desertion is wholly technical, as it occurred after the practical close of the war, when so many of the soldiers returned without leave.

Pension was denied claimant for the reason that the disease of which the soldier died was not contracted in the service.

By evidence furnished your committee the following additional facts are shown:

John S. Smalley, in his affidavit, says that he was

Well acquainted with Byrom Pitney, of Company K, Twenty-sixth Infantry, New York Volunteers; that he resided with and worked for him several years preceding the war, leaving his, the said Smalley's, occupation to go in the United States service; that said Pitney was a very robust healthy man at the time of entering the service; that he returned to his employ at low wages September 16, 1865, in an enfeebled state, and not able to perform full service, being much broken in constitution, subject to colds and rheumatism; that his lungs were weak, with tendencies to pneumonia. That said Pitney continued to reside with him until the 19th of October, 1868, and performed labor, when able, but at no time was he able to perform full service by reason of his enfeebled condition. * * * That he continued to be acquainted with and frequently met said Pitney at his, deponent's, house, from time to time, from the time he left his employ to his death, and that he remained in the same enfeebled state of health to his decease.

Matilda Jane Smalley, wife of John S. Smalley, testifies to substantially the same facts as her husband.

J. A. Johnson testifies that he was acquainted with the soldier, Byrom Pitney, before and after his service in the Army; that

Said Pitney was of robust health and strong constitution before entering the United States Army, and that said Pitney came to work for said deponent, as blacksmith, after returning from said United States service, in the year 1871 or 1872; during the winter and along in the spring of the year 1871 or 1872, during which time he complained of and was afflicted with severe colds, weakness of lungs, symptoms of pneumonia, and rheumatism, and not able to earn much more than his board Said Pitney had a severe cough, and complained of the wound he received in the back or shoulder, and continually took medicine, and told me he had not been well since he was in the service.

William J. Quick testifies that he was,

Acquainted with Pitney in 1874; from 1874 that said Pitney was in poor health and not able to do full work; that he had a severe cough and weak lungs and complained of pain in his shoulders and back, and that he was generally in an enfeebled condition, suffering from malaria, and had the appearance of a broken-constitutioned person.

Ogden B. Van Doven testifies that he,

Was intimately acquainted with Byrom Pitney * * * from April, 1876, to February 23, 1883 (the day of his death), and had almost daily intercourse with him; that from beginning of said acquaintance to said death said Pitney was severely afflicted and frequently prostrated from the effects of rheumatism, malaria, colds, pulmonary troubles, and general debility, arising from weakness of lungs, and tendencies to pneumonia, and that said Pitney attributed said afflictions and diseases to be the result of wounds received, exposures, and general impairment of his physical condition while employed in the service.

A number of other witnesses testify, with more or less particularity, to the same point.

In cases of this character it is often difficult to determine to what extent disease and debility, having their origin unquestionably in the service, contributed to an acute attack, which finally carries the soldier to his grave; but where it is shown, as it is shown in this case, that the soldier was strong, healthy, and robust upon entering the service; that while in the service he received wounds of such a nature as necessarily to weaken the powers and forces of the system to resist disease; that upon coming out of the service the soldier is broken in health—has become weak and debilitated, subject to colds, afflicted with coughs, rheumatic attacks, and a general tendency to pulmonary troubles, which condition is shown to continue in an increasing degree from year to year, finally ending in an acute attack of pneumonia, resulting in death—your committee are constrained to believe that the acute attack, which is given as the immediate cause of death in this case, mainly, if not wholly, resulted from the wounds, diseases, and debility of the soldier incident to the service.

Your committee therefore recommend the passage of the bill.

O

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1195.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 662.]

*The Committee on Pensions, to whom was referred the bill (H. R. 662) granting a pension to Mrs. Ann Sheffield, have examined the same, and report as follows:*

The said Ann Sheffield is the mother of Edward Sheffield, who was orderly sergeant, Company H, Eighth Regiment Indiana Cavalry, from the 29th August, 1861, till his death, July 11, 1865.

The claimant filed her application for pension 17th August, 1871, and alleged therein that her said son died of wounds received while in said service.

The Adjutant-General reports that said Sheffield "died at Lexington, N. C., July 11, 1865, of concussion of the brain."

Thomas Graham testifies that the circumstances of said soldier's death were, that he and another soldier of said command were absent from camp on leave, and upon returning to camp, said Sheffield, being intoxicated, was challenged by the guard, when an altercation took place between the parties, which resulted in said Sheffield receiving a blow upon the head from a musket in the hand of the guard, badly injuring him, and from which he died that night. Said Graham, who was the major of the regiment, further states that the soldier was never intoxicated while on *duty*, to his knowledge; but sometimes while in camp would become so. It appears that the soldier was struck by a guard belonging to another regiment.

William Johnson gives the following account of the transaction:

> Our regiment had been paid off and we were getting ready for being mustered out. Said Edward Sheffield and a comrade named Steele had gone into town, and Steele, who was intoxicated, got into a quarrel with one of the provost guards in said town, who belonged to the Sixteenth Ohio Cavalry. Said Sheffield stepped up to interfere, when another one of the guards struck him on the head with a Sharp's carbine.

Rufus Gale, the lieutenant of the soldier's company, states that after the regiment had been paid off the said Sheffield, in going into the town of Lexington, was stopped by the guard on the outskirts, when an altercation took place between him and the guard, which resulted in his being struck with a gun, which resulted in death. He further states that said Sheffield would occasionally become intoxicated, and that this occurred about 20th July, 1866.

It is very manifest from the evidence that the soldier, when he received the fatal blow, was engaged in an altercation with the guard of

another command, either on his own or his comrade's account. H
clearly not in the line of duty when the injury was received, so
the evidence discloses, and the claim was for that reason reject
the Pension Office. In this action there is no error or injustice do
claimant, and the rejection should be adhered to.

Your committee accordingly report back the bill to the Senate
the recommendation that it do not pass.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1196.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 3829.]

*The Committee on Pensions, to whom was referred the bill (H. R. 3829) granting a pension to John Beck, have examined the same, and report as follows:*

That said John Beck, late private in Company M, Fourth Missouri Cavalry, enlisted in August, 1861, and was discharged in October, 1864, at expiration of term of service. In May, 1880, he filed his application for pension, alleging "that while in the service and in the line of duty at Carondelet, near Saint Louis, Mo., he was kicked by a horse on his right leg, which caused a severe wound and resulted in rheumatism in said leg, so that he is unable to make use of boots or heavy shoes."

In a subsequent affidavit, filed September 11, 1880, the claimant states that he was kicked about November 15, 1861; that after he was all well and healthy he again returned to his regiment, and from hard exposures and lying outside in the cold and wet he contracted rheumatism in his right leg, which gradually became worse after his discharge.

There is no record of any disability while in the service or at date of discharge, nor any medical treatment for many years after leaving the service. Neighbors and others speak of his complaining of rheumatism long after his discharge.

In June, 1882, the claimant was examined by a board of surgeons at Milwaukee, Wis., where he resides, which reported as follows:

In our opinion the said John Beck is *not* incapacitated for obtaining his subsistence by manual labor from the cause above stated (his alleged disability). There is a non-adhesive superficial cicatrix in calf of right leg, causing no disability whatever. There are no structural changes from rheumatism. He has the conventional lame back.

He was again examined by another board in May, 1883, at the place of his residence, which reported as follows:

There is a smooth non-adhesive cicatrix in upper part of calf of right leg, which causes no disability whatever. He claims rheumatism, principally in back, and a frequent desire to pass water. These symptoms are owing to an enlarged prostate. The heart is free from disease. His general condition is *first class*. From the condition of the claimant it is our opinion that the disability was not incurred in the service, as claimed. We find the disability as above described to entitle him to *no rating*.

The claim was accordingly rejected, on the ground that the applicant had not been disabled in a pensionable degree since date of discharge

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1197.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 2128.]

*The Committee on Pensions, to whom was referred the bill (S. 2128) granting a pension to James McLaughlin, have examined the same, and report as follows:*

That said James McLaughlin enlisted in November, 1863, as captain of Company I, Tenth Kansas State Militia, and was discharged October 30, 1864. On November 3, 1881, he filed his application for pension, alleging as the basis of his claim that on or about June 1, 1863, at Leavenworth, Kans., "he contracted inflammatory sore eyes, while serving in the defense of the State, from exposure; that the disease was apparently mastered and removed by a civilian oculist, but when again ordered out, October, 1864, to assist in repelling the Confederates, he suffered a relapse, and the disease has since been a source of pain and increasing disability." The claim was rejected by the Pension Office on the ground that the claimant was not in the United States service when he contracted the alleged disability, and because he did not prosecute his claim to a successful issue prior to July 4, 1874, as provided by paragraph 3, section 4693, of the Revised Statutes. No satisfactory explanation of his failure to prosecute his claim within the time prescribed by law is given; nor is there any testimony that the soldier or his company was under the command of United States officers, or was co-operating with the United States forces when the alleged disability was contracted. In the absence of these facts the claimant is not pensionable under existing laws, and the action of the Commissioner in rejecting the claim was correct.

Your committee recommend the indefinite postponement of the bill.

O

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1199.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. CAMDEN, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 1995.]

*The Committee on Pensions, to whom was referred the bill (S. 1995) granting a pension to John R. Hurd, have carefully examined the same and the papers therewith submitted, and respectfully report:*

It appears from the report of the Commissioner of Pensions, filed with the papers, that the claimant, since the introduction of the bill, has been granted the relief asked for by the bill.

Your committee therefore recommend the indefinite postponement of the bill.

O

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1200.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. CAMDEN, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 5069.]

*The Committee on Pensions, to whom was referred the bill (H. R. 5069) granting a pension to Mrs. Mary J. Stotts, widow of Green C. Stotts, have carefully examined the same, and respectfully report:*

It appears from the evidence that the soldier was mustered into service on November 1, 1863, and was discharged July 1, 1865, and died of lung disease November 5, 1876.

The claimant filed her application for pension on the 20th of November, 1878, and it was rejected by the Commissioner of Pensions on the ground that the fatal disease did not originate in the service, but that the fatal disease originated while the soldier was in the service of the Missouri Enrolled Militia prior to his muster into the United States service.

Dr. Andrew Wilson, formerly assistant surgeon Seventy-sixth Regiment Enrolled Missouri Militia, testifies that he attended the deceased during his militia service for bronchitis, in December, 1862, and in June, 1863. He states the deceased was of a scrofulous constitution and susceptible to the influence of cold and exposure. Capt. George F. Bowers states that he was captain of Company C, Fifteenth Missouri Volunteers, and was well acquainted with the late G. C. Stotts, and that during the early part of the war the company was greatly exposed, and Captain Stotts took cold, which settled on his lungs, and from which he never recovered.

From the evidence of Dr. Andrew Wilson it appears that the deceased was treated by him for bronchitis during 1863, and it is also in evidence that the soldier was more or less disabled from December, 1862, until 1864.

The deceased soldier did not enter the service of the United States until November 1, 1863, and it is clearly in evidence that the disease from which he afterwards died was contracted prior to that time, while in the Missouri Enrolled Militia.

But inasmuch as the soldier was in continuous service from 1862 until the time of his discharge, in 1865, having been transferred from the Enrolled Militia to the service of the United States in 1863, as fit for service as a soldier, and as it appears the disease from which he died was contracted during the period of his service, your committee are of opinion that the claimant is entitled to relief, and recommend the passage of the bill.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1201.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. LAPHAM, from the Committee on Foreign Relations, submitted the following

# REPORT:

[To accompany joint resolution S. 111.]

*The Committee on Foreign Relations, to whom were referred joint resolution (S. 111) relative to the distribution of the moneys received upon the awards of the Mixed Commission between the United States and Venezuela, and also the petitions of Margaret F. Rawdon, residing at Little Falls, State of New York, and of Ralph S. Demarest, residing at Demarest, State of New Jersey, praying for the distribution of said moneys, having duly considered the same, report:*

It appears that the Claims Commission at Caracas, under the convention with Venezuela, concluded on the 25th of April, 1866, terminated its labors on the 8th of August, 1868. Awards were made in twenty-four cases in favor of claimants of the United States, amounting to $1,253,310.30. By the terms of the convention the awards were to be paid in ten annual payments, the first of which was to be made in six months after the date of the awards. Three hundred and sixty certificates of award, bearing interest at the rate of 5 per cent. per annum, payable semi-annually, were issued to the beneficiaries in whose favor the awards were made. In satisfaction of the same, Venezuela has paid to the United States only $410,847.49. Of this sum, $177,360.27 has been distributed to claimants. The balance, $233,487.22, has been increased by its investment in United States securities and by the conversion of gold into currency.

The Government of Venezuela has never denied that seventeen of the awards, amounting to nearly a half million of dollars, were properly decided, but has claimed that the awards in seven cases decided by the umpire were tainted with fraud. The payments thus far made by Venezuela are about equal to the interest on the undisputed awards, while the entire amount of all the awards, principal and interest, by the terms of the convention, should have been paid more than five years since. There have been various investigations and resolutions, and acts of Congress upon this subject, including an act passed on the 25th of February, 1873, commonly known as the "finality act," which was in these words:

*Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,* That the adjudication of claims by the convention with Venezuela of April 25, 1866, pursuant to the terms of said convention, is hereby recognized as final and conclusive, and to be held as valid and subsisting against the Republic of Venezuela.

This act was repealed in June, 1878, leaving the President free to exercise his discretion upon the subject of said awards. In May, 1882, the President sent his message to Congress, in which he stated that unless Congress took some action upon the subject of these awards he should deem it his duty to direct that the prolonged discussion be definitely terminated by recognizing their absolute validity.

Accompanying this message was a communication from the Secretary of State, concluding as follows:

Against the awards to which no exception has been taken, seventeen in number, Venezuela cannot at this late day rightfully interpose a complaint. They should stand as valid, and the holders of certificates which represent them will be paid from time to time their proportionate sums of amounts paid or that may be paid by Venezuela, except so far as courts of competent authority in the United States having proper jurisdiction between the parties may adjudicate otherwise upon their rights, or unless Congress shall direct to the contrary.

And on the 3d of March, 1883, Congress passed a joint resolution, which was approved by the President, in the following words:

JOINT RESOLUTION providing for a new Mixed Commission in accordance with the treaty of April twenty-fifth, eighteen hundred and sixty-six, with the United States of Venezuela.

Whereas, since the dissolution of the Mixed Commission, appointed under the treaty of April twenty-fifth, eighteen hundred and sixty-six, with the United States of Venezuela, serious charges, impeaching the validity and integrity of its proceedings, have been made by the Government of the United States of Venezuela, and also charges of a like character by divers citizens of the United States of America who presented claims for adjudication before that tribunal; and

Whereas, the evidence to be found in the record of the proceedings of said Commission, and in the testimony taken before committees of the House of Representatives in the matter, tends to show that such charges are not without foundation; and

Whereas, it is desirable that the matter be finally disposed of in a manner that shall satisfy any just complaints against the validity and integrity of the first Commission, and provide a tribunal under said treaty constructed and conducted so as not to give cause for just suspicion; and

Whereas, all evidence before said late Commission was presented in writing and is now in the archives of the State Department; and

Whereas, the President of the United States has, in a recent communication to Congress, solicited its advisory action in this matter: Therefore

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President be, and he hereby is, requested to open diplomatic correspondence with the Government of the United States of Venezuela, with a view to the revival of the general stipulations of the treaty of April twenty-fifth, eighteen hundred and sixty-six, with said Government, and the appointment thereunder of a new Commission, to sit in the city of Washington, which Commission shall be authorized to consider all the evidence presented before the former Commission in respect to claims brought before it, together with such other and further evidence as the claimants may offer; and from the awards that may be made to claimants, any moneys heretofore paid by the Department of State, upon certificates issued to them respectively, upon awards made by the former Commission, shall be deducted, and such certificates deemed canceled; and the moneys now in the Department of State, received from the Government of Venezuela on account of said awards, and all moneys that may hereafter be paid under said treaty, shall be distributed pro rata in payment of such awards as may be made by the Commission to be appointed in accordance with this resolution.

Immediately upon the passage of this resolution correspondence was opened between the Department of State and the representative of the Government of Venezuela (which is shown in Executive Document No. 52, second session Forty-eighth Congress), from which it appears that the Government of Venezuela claims she was absolved from making further payment upon the awards. That they were all opened by the said resolution, and nothing has since been paid by her. Against this view of the effect of the resolution and the refusal to make further payments the United States has constantly and earnestly protested.

On the 11th of June, 1884, with a view of carrying into effect the

resolution of the 3d of March, 1883, the United States submitted to Venezuela a draft of a convention, which, after much correspondence, and without any offer or proposal to amend the same, though requested to do so, has been finally rejected by Venezuela, and on the 22d of January, 1885, notice was given to Venezuela that, with a view of avoiding further delay to the prejudice of citizens of the United States whose just rights under the treaty have never been impugned, a statement of the results would be submitted to Congress.

On the 27th of January last the President communicated these proceedings in a message to Congress, accompanied by a letter of the Secretary of State, which constitute Ex. Doc. No. 52.

The petitioner, Mrs. Rawdon, is claimant under one of the original certificates, and the petitioner, Ralph S. Demarest, purchased his interest in the awards for value, while the aforesaid "Finality Act" was in full force. They claim that they are each entitled to be paid their portions of the moneys now held by the Department of State.

Your committee, therefore, report a resolution as a substitute for the joint resolution now under consideration, and recommend its passage; and also ask that the committee be discharged from the further consideration of said petitions.

O

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1202.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 7500.]

*The Committee on Pensions, to whom was referred the bill (H. R. 7500) to restore Lewis J. Blair to the pension-roll, have examined the same, and report:*

That the facts in the case are set forth in the following report of the House Committee on Invalid Pensions, submitted July 2, 1884:

That claimant was mustered into the military service of the United States as captain of Company H, Eighty-eighth Regiment Indiana Volunteers, August 29, 1862; was subsequently commissioned major and lieutenant-colonel, and was honorably discharged June 7, 1865.

July 14, 1870, he was granted a pension of $20 per month for injuries of left side and ankle, received at the battle of Missionary Ridge, November 25, 1863.

November 29, 1876, his name was dropped from the pension-roll by order of the Secretary of the Interior, on the report of a special examiner of the Pension Office, on the ground that the disability for which the soldier was pensioned was not due to his military service.

The committee have examined this case very carefully, and find from the evidence of the colonel commanding the regiment at the battle of Missionary Ridge, and other officers present at this engagement, that Lieutenant-Colonel Blair was injured in his left breast, arm, side, and leg, by a bursting shell, and by being struck on the ankle by a spent ball; that he was treated in hospital for these injuries. The assistant surgeon of the regiment certifies to treatment for these injuries at the battle. The continuance of the disability from these injuries is shown by the testimony of the physicians who have treated him since his discharge. He is also shown to have been free from any disability prior to and at the time of being mustered into the military service of the United States.

The pension was originally granted by Commissioner of Pensions Bentley, after a personal examination of the evidence on file.

Your committee find in the evidence on file in this case, as well as that taken by the special examiner of the Pension Office, no sufficient reason for the action of the Commissioner in dropping the name of this soldier from the pension-roll, and therefore recommend the passage of the accompanying substitute bill.

Under these circumstances we recommend the passage of the accompanying bill.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1203.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following

# REPORT

[To accompany bills H. R. 7952 and S. 2535.]

*The Committee on Pensions, to whom were referred the bills (H. R. 7952 and S. 2535) granting a pension to Mrs. Julia Hartley, having examined the same, respectfully report as follows:*

That portion of the report of the House Committee on Invalid Pensions which is adopted and hereby made part of this report is as follows:

That the military record of Capt. John Hartley is most honorable. He was in the Army twenty years in continuous service of his country. He enlisted in the Eighth Minnesota Volunteer Infantry in the war of the seceding States on the 14th of August, 1862, as a private; was in several engagements, and was at different times three times severely wounded—twice in his leg and once in his right eye; and for his gallant conduct was made sergeant-major and captain of commissary, and breveted major in the line, and was honorably discharged at the close of the war. He was commissioned captain on the 28th of July, 1866, in the United States Army, and placed in command of Company B, Twenty-second Infantry. He participated in all the Indian fights under General Stanley, and General Stanley writes a letter stating that Captain Hartley served under his command a long time, and in the field a gallant officer, brave and efficient at the station, a good duty officer, meritorious and faithful. Colonel Otis writes a letter stating that Captain Hartley was a very intelligent, brave, efficient, and faithful officer; quick to understand and prompt to obey any orders; that he served under his command a long time, and very hard and dangerous service in the field, and very useful at the station. General Terry writes a letter that Captain Hartley served in his department, and he was one of the best officers in his command; intelligent, brave, and faithful; an upright gentleman of superior qualities in every respect. General Hancock writes that he knew Captain Hartley well; that he served under his command; that he was an excellent officer, and gave entire satisfaction. Captain Hartley had a severe wound in his right eye, received in the line of his duty, which always produced pain in his head, and as his arduous duties increased the pain increased until it affected his brain and caused him in a fit of insanity to resign.

From the statements of Mrs. Hartley, added to the testimony of General Hancock, General Terry, and others, the committee is satisfied that Captain Hartley's death resulted from wounds received while in the service of his country as a soldier. Taking into consideration all the facts in the case, including the fact that the widow has been left by her husband entirely penniless, your committee have decided to report back the House bill with the recommendation that it do pass, and recommend that the Senate bill be indefinitely postponed.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1204.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 8038.]

*The Committee on Pensions, to whom was referred the bill (H. R. 8038) granting a pension to Harriet A. B. Corts, have examined the same, and report:*

A brief statement of the facts relied upon by the claimant in this case to support the present bill is contained in the following report of the Committee on Invalid Pensions of the House of Representatives (H. R. Report No. 2403) made during the present session:

That the claimant is the widow of George P. Corts, late assistant adjutant-general Second Brigade, Third Division, Second Army Corps, United States Volunteers. He entered the service at Pittsburgh, Pa., April 29, 1861, in the Twelfth Pennsylvania Volunteers, deciding to do so the very day that Fort Sumter was fired upon. This was a three months' regiment, and upon the expiration of his term of service he returned to Pittsburgh, and in connection with the late General Hays within a few days raised the Sixty-third Pennsylvania Volunteers. He served with that until he was commissioned by President Lincoln an assistant adjutant-general of volunteeers "for bravery on the field," and assigned to the staff of General Alexander Hays. He served with him until he fell, May 6, 1864, in the battle of the Wilderness. In that battle the husband of the claimant was shot through the shoulder, and though he recovered sufficiently to do some light court-martial duty, he was mustered out, suffering from his wounds until he died from their effects, April 18, 1870.

The nature of the service he gave his country may be understood from the report of General Hays of the battle of Gettysburg:

"Capt. George P. Corts, assistant adjutant-general, and my aid, Lieutenant Shields, of the Sixty-third Pennsylvania Volunteers, were constantly by my side, exhibiting, as always heretofore, self-possession and courage of the highest order. Captain Cortes lost two horses killed under him.

Immediately after the battle of Bull Run, Mrs. Corts came to Washington to attend her brother, who was seriously wounded, and finding the greatest need of laborers in the hospitals, went to work as a nurse. For about one year she was a volunteer nurse in Ward D, Armory Square hospital, and then for two years and over engaged under the auspices of the Michigan Soidiers' Relief Association, visiting over twenty hospitals in and around Washington each week regularly, and supplying stores as the soldiers' needs required, as well as aiding in their collection.

After the death of her husband Mrs. Corts made application and was pensioned at the rate of $20 per month from the death of her husband.

She now asks that this be increased on account of her own services. It appears by her petition that her services for over three years were given without any pay whatever, besides several hundred dollars of her own money, which she had earned as a teacher, and paid her own expenses while she worked as a nurse. She was married in 1864, but continued her work as a nurse till the war closed, in 1865.

She has also lost a brother, who died of wounds contracted in the service, and her father is also unable to support himself by reason of disease contracted in the Army, and partially dependent upon her for support. She has a daughter also dependent upon her. Mrs. Corts is also suffering from a broken ankle, and is less able to support

herself, or those dependent upon her, and it also entails much additional expense. She has no property, and no one to look to for assistance or support.

The following exhibits are presented in support of her claim.

In view of all these facts, the gallant services of her husband and her own long and valuable services as a nurse, given without fee or reward, the death of her brother, and disability of her father, and her own dependent condition, your committee recommend the passage of the bill, with the following amendment: Strike out the word "fifty," in line eight, and insert "forty."

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## APPENDIX.

Having been requested, as the only surviving officers of the Michigan Soldiers' Relief Association, to make a statement as to the services of Mrs. Harriet A. B. Corts, formerly Miss Hattie A. B. Corts, I take great pleasure in saying that she labored during the war under the auspices of the association, and as our agent, nursing sick and wounded soldiers, working voluntarily and without pay from our organization. The printed reports of our association make honorable mention of her labors under our direction and as our agent; and from recollection, I believe that her valuable aid, as relief agent and Army nurse, justly entitle her to recognition from all true friends of the soldier.

Z. MOSES,
*Former Treasurer Michigan Soldiers' Relief Association.*

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It gives me pleasure to testify from my own knowledge to your devotion to the welfare of the sick and wounded of the Army of the Potomac, particularly the brigade of Michigan troops with which I had the honor to serve. Your services given, as I believe, wholly without compensation, and from the same high motive that induced your father, with whom for many years before the war I was well acquainted, to give his services to his country, were of great value, and won for you the gratitude and respect of the officers and other soldiers of the command. The work of the character mentioned, which you did in the hospitals near the field and in Washington City during the years 1862, 1863, and 1864, cannot be overestimated.

GEORGE GRAY,
*Formerly Colonel Sixth Michigan Cavalry.*

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I remember, as must every Michigan officer and soldier, your many acts of sacrifice and devotion in their behalf during the war. You were among the most prominent of that noble band of women who found pleasure in being by the bedside of our sick and wounded soldiers in the dark days of the rebellion. Many a one had reason to bless your presence. Feeling this, I should be glad to befriend you in any way in my power, but I am sure you will need no friends whom you will not find in the Michigan delegation, any and all of whom will be glad to render you a service.

HENRY A. MORROW,
*Colonel United States Army, Vancouver Barracks, Washington Territory.*

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Captain Corts was one of the first soldiers to respond to the President's call for volunteers in the spring of 1861. He continued in service throughout the war, and, as I am informed and believe, died from the effect of wounds received in the line of his duty, leaving a widow and two children. I think I know of what I speak when I say there was no more gallant and faithful soldier in the Army of the Potomac than Captain Corts.

While Captain Corts was in the field the lady who asks for relief, then unmarried, a lady of refinement and culture, was actively and diligently engaged in hospital work, in which she was most laborious and efficient during three years of the war. Mrs. Corts is lame from the effects of a fall, and is dependent on her own exertions and the bounty of a grateful and well-served country for herself and her daughter's maintenance and support.

S. D. OLIPHANT,
*Late Colonel and Brevet Brigadier-General of Volunteers.*

Since the above report was made numerous letters and papers have been filed with the Senate committee in support of the present bill.

Francis A. Walker, brevet brigadier-general, United States volunteers, and late assistant adjutant-general, Second Corps, states as follows:

I have great satisfaction in testifying to the brave, intelligent, and devoted services of Capt. George P. Corts, assistant adjutant-general of volunteers. Captain Corts was on the staff of that most gallant soldier, General Alexander Hays, who fell in the Wilderness, May 5, 1864. At about the same time Captain Corts was himself severely wounded. I have always understood that these wounds disabled him permanently, caused him great anguish during his remaining years, and ultimately brought about his premature death, but on this latter point I cannot speak from personal knowledge. Of Captain Corts's services with the Second Army Corps, in 1863 and 1864, I can speak from observation. During a part of that time he acted as assistant adjutant-general of division. A more gallant soldier, a more devoted staff-officer, a truer man, it would be difficult to name. He worked indefatigably in his office duties, displayed great intelligence and capacity on the march and action, and commanded everywhere the respect of all his comrades by his manly, courteous, and truthful disposition.

General Winfield S. Hancock, writing from Governor's Island, N. Y., January 26, 1885, says:

I indorse the statements contained in the letter of General Walker in reference to Capt. George P. Corts, assistant adjutant-general, United States volunteers.

Joshua T. Owens, late brigadier-general of volunteers, writes from Philadelphia, Pa., January 14, 1885, as follows:

Capt. George P. Corts was known to me as well in his official character as adjutant on General Hays' staff, who commanded the Third Division, Second Corps, as in his private character as a citizen soldier. He was a very efficient officer and soldier. I commanded the Third Brigade of this division, and can speak of him from personal knowledge. He rendered valuable services to his country, and his surviving family deserve high consideration at the hands of the Government and people of the United States.

General C. D. MacDougall, late commanding Third Brigade, Third Division, Second Corps, writes as follows:

I was for a long time during the war of the rebellion colonel, One hundred and eleventh Regiment New York Volunteers, and commanded a brigade in the Third Division, Second Army Corps. I was, during that time, intimately acquainted with the late Capt. George P. Corts, assistant adjutant-general of that division, commanded by the late General Alexander Hays. I knew of no braver soldier or more patriotic gentleman than Captain Corts. I saw him at the battle of Gettysburg, and on many bloody fields of the war, and in all cases and under all circumstances his bravery was so conspicuous as to attract the attention of all who knew him. His gallantry met the approval of all his superiors and was a matter of general comment throughout the entire division. I learn that Captain Corts has a widow and daughter who are asking for an increase of pension. If ever there was a meritorious case I consider this one. The country cannot do too much for those whom the gallant Captain Corts left to mourn his untimely end.

The testimony as to Mrs. Corts's personal services is also very ample and satisfactory.

Dr. D. W. Bliss, late brevet colonel and surgeon United States Volunteers, says:

Mrs. H. A. B. Corts, *née* Miss Hattie A. Bateman, was employed as a volunteer nurse in Armory Square Hospital, Washington, D. C., for a period of about one year, in 1862 and 1863. She was a most efficient and capable nurse, devoting her time and efforts unceasingly until her health was seriously impaired. After leaving the hospital she was for a period of two years employed by the Michigan Relief Association, where her labors were most valuable. This service was entirely without compensation.

Dr. J. E. Dexter, late medical inspector Third Army Corps, says:

She was a most efficient nurse during the late war, serving both in field and in hospital. As such she is entitled to the highest consideration from the Government for her service in that *department*. *I hope* she may receive it.

Dr. Susan A. Edson speaks of her as a faithful nurse, and their laborious work, being near the landing where the most severe cases were brought from the battle-fields.

Hon. W. S. Stenger, late a member of Congress, and now secretary of the commonwealth of Pennsylvania, who is acquainted with claimant, writes urging the passage of the House bill.

Prof. E. M. Booth, of the State University of Iowa, says:

I wish to bear testimony to the efficiency of Mrs. H. A. B. Corts, *née* Miss Bateman, as agent of the Michigan Soldiers' Relief Association at Washington. My acquaintance with her was formed at Armory Square Hospital while attending a brother who was wounded at the battle of Fredericksburg, and died at that hospital. Mrs. Corts rendered me invaluable service during those days of bewilderment and grief by her sympathy, advice, and assistance, and inferring from my own experience the nature of her help to many others, I add my recommendation for any reasonable amount of increase in pension, in view of her recent misfortune.

Mrs. Corts some time since fell and broke her ankle, and though partially recovered, it seriously disables her. The disability is permanent and will probably increase.

This case can hardly become a precedent, for there are few, if any, widows of officers who acted as nurses in actual service who can ask an increase of pension upon that ground. Congress has in numerous cases increased the pensions of widows in consideration of the gallant and distinguished services of their husbands, but it is not alone upon that ground that this application is based. Her own services and sacrifices in the cause for which her husband and brother died she believes should entitle her to the recognition of the Government.

In view of all the facts in this case, your committee report back the bill as it passed the House, and recommend that it do pass.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1205.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 2115.]

*The Committee on Pensions, to whom was referred the bill (S. 2115) for the relief of Abraham Van Assum, have examined the same, and report as follows:*

The bill proposes to increase the pension of said Abraham Van Assum, late private in Company B, Fifty-first New York Volunteers, from $8 to $50 per month, from and after the passage of the act.

The soldier received a gunshot wound in the right knee during the service. He was discharged April 7, 1865. On the 13th of June, 1865, he filed his original application for pension. His claim was allowed, and he was pensioned in January, 1866, at $4 per month from date of discharge. This was, subsequently, upon certificate of examining board, increased to $6 per month from February 6, 1867. It was again increased to $8 per month from July 8, 1871; then to $12 per month from May 1, 1878. This increase was based upon report of an examining surgeon made in the early part of 1878. This $12 rate was reduced in November, 1878, to $8 per month, upon the report and recommendation of a board of examining surgeons, and the soldier is now in receipt of that rate. He has since been annually examined by boards of surgeons, which have uniformly refused to recommend any increase. All of these boards report that $8 is his proper rating except one, which fixed it at $10 per month.

The wound produced more or less of anchylosis of the knee joint; but in the later reports of the examining surgeons, running through the latter part of 1878, 1879, and 1880, it is stated that the proper rating of claimant was only $8 per month. His last examination was made in February, 1880, when the board reported against any increase. In several of the reports it appears that the claimant suffers from dyspepsia, and "that he is given to drink more than is good for him," and the opinion is expressed that "his condition of stomach may be traced to the effects of bad whisky." His recent application for increase has been denied by the Pension Office, for the reason that he is receiving a rate fully commensurate with his disability from the gunshot wound. The medical referee of the office upon claimant's last application for increase says:

Of this man's appeal I have this to say: That having *many times personally* examined him, it is my *deliberate* judgment he is paid (at total $8) in excess rather than in-

adequately; that by his persistent misstatements he at one time led the office into estimating his disability at third grade goes for nothing. I have seen him walk with as quick, firm step as any man. He has had more than he was entitled to, and is now paid at a rating which more than gives him every doubt.

A careful examination of the papers in the case fully satisfies your committee of the correctness of this conclusion. There is no merit in the claim for increase, and the committee recommend the indefinite postponement of the bill by the Senate.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1206.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 2282.]

The Committee on Pensions, to whom was referred the bill (H. R. 2282) granting a pension to Adolph Weach, have examined the same, and report favorably, recommending its passage.

We refer to the House report for a condensed statement of the facts:

[House Report No. 1161, Forty-eighth Congress, first session.]

Said Adolph Weach enlisted in the Eleventh Michigan Infantry August 24, 1861, and having served his full term faithfully, making a good military record, he was honorably discharged September 30, 1864. He filed his declaration for an invalid pension April 28, 1876, claiming disability from chronic rheumatism contracted in the service while in line of duty, which claim was rejected on the ground of "no record of alleged disability."

Claimant states that he contracted said disease from exposure and hardships while chasing Morgan through Kentucky, and that it settled in his left hip, by reason of which he is disabled.

Capt. Nelson Chamberlain, of the Eleventh Michigan Infantry, testifies that claimant while in pursuit of Morgan contracted rheumatism, which settled in his left hip.

The regimental surgeon, William N. Elliott, testifies that claimant was sound and healthy at enlistment, and that in June, 1862, at Columbia, Ky., he treated him for rheumatism, which settled in his left hip; and he further says in a letter of date January 26, 1878, that the regimental records are very imperfect.

The claimant further states that from date of discharge he used liniments and home remedies to alleviate his sufferings, and employed no physician till 1870, when he was compelled to call in Dr. Gregg, by whom he was treated till 1877, which is established by the affidavit of said John M. Gregg, M. D., and is corroborated by ample testimony of neighbors who have known the claimant intimately since his discharge to the present time, who testify that he has not been free from chronic rheumatism during said period.

Examining Surgeon W. F. Breakey certifies that his disability from chronic rheumatism is total and probably permanent.

From the foregoing facts your committee are of the opinion that the imperfect regimental records should not prevent a worthy and deserving soldier from receiving what is clearly and justly his due. We therefore recommend the passage of the bill.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1207.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 1711.]

The Committee on Pensions, to whom was referred the bill (H. R. 1711) granting pensions to Frederick Nelson, T. Caine, and Henry C. Sanders, have examined the same and report favorably, recommending its passage.

The facts are contained in the House report:

[House Report No. 482, Forty-eighth Congress, first session.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1711) granting a pension to Frederick Nelson, T. Caine, and H. C. Sanders, have had the same under consideration, and beg leave to make the following report:*

This bill was introduced in the Forty-seventh Congress (H. R. 4982) and reported favorably upon from the committee, No. 1471. A careful review of the bill and the facts sustaining it seem to fully warrant the favorable report made upon it in the Forty-seventh Congress. It was not reached for action during that Congress. The report made by the former committee, and above referred to, is so fair and complete a résumé that the committee incorporate it herewith in their report.

[House Report No. 1471, Forty-seventh Congress, first session.]

"*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4982) granting a pension to Frederick Nelson, T. Caine, and R. Sanders, have had the same under consideration, and beg leave to make the following report:*

"In support of the bill, claimants present the certificates of Capt. James Gillis, assistant quartermaster United States Army, and R. S. Vickery, assistant surgeon United States Army, at Fort D. A. Russell, Wyoming Territory.

"Captain Gillis certifies that at the time of the fight of Maj. T. T. Thornburgh, Fourth United States Infantry, with the Ute Indians on Milk River, Colorado, September 29, 1879, *Henry C.* Sanders was in the employ of the Quartermaster's Department as a citizen blacksmith. Also, that at said time and place Frederick Nelson and Thomas Cain were employed as teamsters in the Quartermaster's Department.

"Surgeon Vickery certifies as follows:

"'The following-named men, employés in the Quartermaster's Department, were with the command of Capt. J. S. Payne, Fifth Cavalry, in action with the Ute Indians on Milk River, Colorado, September 29, 1879, and were wounded in that action, and were received into this hospital October 19, 1879, with other wounded men from the same field.

"'Their condition then was as follows:

"'Frederick Nelson, gunshot wound of left shoulder, the bullet passing over and grazing the bone; gunshot wound of left leg, the ball entering at lower and outer border of left thigh, ranging downwards; it still remains deeply lodged amongst the muscles. He had also scars of wounds received in the war of the rebellion—a shell wound fracturing the right leg, and a flesh wound of neck from rifle ball. He was in this hospital until March 2, 1880, and still remains totally disabled, the result of his wounds.

"'Henry C. Sanders, wound from rifle ball passing across back part of left knee, wounding the bone and opening the joint. As the result of it there has been much inflammation and an immense amount of suppuration all along the leg and thigh. He is still confined to bed in hospital, but is now recovering. Totally and permanently disabled.

"'Thomas Cain, bullet wound of chest, right side; the ball entered over third rib and came out between seventh and eighth rib, fracturing the ribs and perforating the lung. He was discharged from hospital, wound healed, January 5, 1880.'

"There is also on file the following statement by Capt. J. S. Payne, Fifth Cavalry, commanding the expedition against the Utes, indorsed upon letter addressed to him by Frederick Nelson:

"'Nelson was with my command as teamster in the campaign last fall, and served in that capacity faithfully. During the affair of Milk River, September 29-October 5, he did the duty of a soldier courageously and cheerfully, until he received a painful wound, from which he is now suffering and by which he is disabled for life. His conduct came under my personal observation, and I take pleasure in recommending that a pension be granted him.'

"'In addition to the above there is on file the following house joint resolution and memorial of the legislative assembly of Wyoming Territory:

"'*To the honorable Senate and House of Representatives of the United States in Congress assembled:*

"'Your memoralists, the legislative assembly of the Territory of Wyoming, respectfully represent that H. C. Sanders, Fred Nelson, and Thomas Kane, citizens of this Territory, while in the employ of the United States Government and doing duty as soldiers under the orders of officers of the United States Army, were wounded and permanently disabled in an engagement with the Ute Indians at Milk River, Colorado; said engagement being known to the country as the "Thornburg massacre."

"'And your petitioners would further represent that these persons being disabled for life while protecting the property of the United States, and taking arms against the public enemy in obedience to Army authority, are entitled to relief of a suitable pension in each case, such as the gratitude and liberalty of a great power naturally award to its defenders at all times.

"As under existing United States laws there are no provisions by which claims of this class can be adjudicated and allowed, your petitioners pray that the persons hereinbefore mentioned, upon showing by proper affidavits their authorized service of and employment by the Government, their presence at the action named, and that the wounds there received have caused permanent disability, may obtain relief at your hands by the passage of an act granting to said persons such a pension as the presentation of facts and circumstances in each case may seem to warrant. And for such action by this memorial your petitioners, the legislative assembly of the Territory of Wyoming, will ever pray.

"'*Be it resolved*, That the secretary of the Territory of Wyoming be requested to forward a copy of this memorial to Hon. M. E. Post, Delegate in Congress, and that he be instructed to use his best endeavors to secure the result prayed for therein.'

"The committee are of opinion that the claimants are entitled to the relief asked for and therefore report favorably on the same, with the following amendments: Strike out the letter 'R' before the word Sanders in the title of the bill and in line six, and insert instead in both places the following: 'Henry C.;' also strike out all after the word 'seventy-nine' in line 11; and thus amended, ask that it do pass."

The committee are of the opinion that the claimants should be granted the relief asked for in the bill, and report favorably on the same.

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48TH CONGRESS, 2d Session } SENATE. { REPORT No. 1208.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 7673.]

The Committee on Pensions, to whom was referred the bill (H. R. 7673) granting a pension to Mrs. Adeline E. Chadbourne, have examined the same, and report favorably, recommending its passage.

The House report contains the facts:

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7673) granting a pension to Mrs. Adeline E. Chadbourne, having duly considered the same, report as follows:*

Mrs. Adeline E. Chadbourne is the widow of the late Capt. Benjamin H. Chadbourne, of the Fifty-seventh Illinois Volunteers. She is nearly seventy years of age. Her husband died about five years ago, leaving her entirely destitute as to property. She is in failing health, partially blind, with no children or relatives to assist or care for her in her declining years.

From about 26th April, 1861, to the fall of 1861, Mrs. Chadbourne had charge of a sewing hall in Chicago, superintending the making of clothes and other necessary articles for the Boys in Blue. In the fall of 1861 she was detailed to assist in seeing that soldiers sent off to the front were properly clothed, and served in that capacity for several months. She often expended her own funds for their comfort, possessing means at that time which enabled her to do so. By the direction of the Surgeon-General she obtained nurses for the army of General Rosecrans from Illinois, Indiana, and Ohio, and assigned them to their respective places for duty. During the remainder of the war, from the spring of 1862, Mrs. Chadbourne was specially engaged in nursing low cases of sick soldiers in hospitals and on sick trains, usually attending them to their homes, sometimes hundreds of miles away. In the autumn of 1863, while in the line of her duty, in going to General Negley's headquarters, near Fort Negley, Tennessee, to take care of the sick there, she was accidentally wounded by a pistol shot, seriously injuring her leg below the knee, from the effects of which she still suffers. She served faithfully throughout the war in her capacity as nurse, and until three months after its close, and for her invaluable services the Government has never paid her one farthing. We regard hers as one of the most meritorious cases presented to this committee. Mrs. Chadbourne produces high testimonials of her character and of the value of her services from Hon. Schuyler Colfax, Hon. I. N. Arnold, Hon. F. W. Kellogg, Miss Dix, and others, a few of which are appended.

Your committee report back the bill for her relief to the House with a favorable recommendation.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1209.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 7724.]

The Committee on Pensions, to whom was referred the bill (H. R. 7724) granting a pension to Lydia Wetherbee, have examined the same and report favorably, recommending the passage of the same.

This case is in accordance with the principle at least twice approved by vote of the Senate during the present Congress. It is further a case of unusual necessity on the part of the aged mother of the deceased soldier. The House report is as follows:

Lydia Wetherbee, a widow seventy-two years of age and without means, is the daughter of a Revolutionary soldier. Her son, George L. Wetherbee, a private of Company B, Fourteenth New Hampshire Volunteers, was killed in battle near Winchester, Va., September 19, 1864. She was largely dependent on said son for support before and up to the time of his death. The deceased left a widow, but no children, who drew a pension until her second marriage, three or four years after her first husband was killed. Mrs. Wetherbee's claim was rejected at the Pension Office because the soldier left a widow. (R. S., sec. 4707.)

The Commissioner of Pensions, in a letter announcing the rejection of Mrs. Wetherbee's claim, September 26, 1884, says:

"The needy circumstances of the claimant and the sacrifices made by her during the late rebellion in giving up her sons to the country's service, appeal strongly to the sympathy of every one, but the law governing her claim is imperative."

Your committee think that since the widow has remarried and her pension stopped on that account, it is equitable that the soldier's mother, whom he largely aided in his life-time, now poor and old, should receive the same pension.

Your committee accordingly report favorably and recommend the passage of the bill with an amendment striking out all words after the word "volunteers" in line 7, and inserting the words "subject to the provisions and limitations of the pension laws."

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5969.]

The Committee on Pensions, to whom was referred the bill (H. R. 5969) granting increase of pension to Frederick S. Rich, have examined the same and report favorably, recommending passage of the House bill.

Pension at the rate of $8 per month has been granted by the Commissioner to this soldier. Owing to his disability thus contracted he has become exceedingly crippled from certain comparatively slight hurts, against which a healthy constitution would readily have rallied, and in fact probably no such injury would have been received.

Further particulars appear in the House report.

[House Report No. 2065, Forty-eighth Congress, first session.]

Frederick S. Rich served as private in Company H, Eighth New Hampshire Volunteers from December 19, 1861, to October 28, 1865. He was allowed a pension of $8 per month from date of discharge, on account of injury to feet, caused by a march of 40 or 50 miles in Louisiana, mostly on trestle-work, made in order to destroy a bridge then being built by the enemy. At time of his discharge claimant was subject to chills and fever by reason of exposure in the swamps of that State, and was in a very low condition. His treatment in hospital for intermittent fever for some time previous to discharge is shown by the records. Chills and fever followed him up for many weeks after his arrival home. About six or eight weeks after discharge, and while yet suffering from the chills contracted in the service he accidentally received a small cut, not more than an inch long and little more than skin deep, on his right knee. No blood apparently followed the cut, but some three or four days after receiving said cut he was stricken down with bilious fever, and some days afterwards the cut became very sore, discharging at times large quantities of pus, resulting in the end in the stiffening of the knee and leg. From this sickness claimant did not recover for nearly two years. The claimant, ever since his discharge, has been unable to do any work save of the lightest character. In November, 1882, while driving a team, he was, without any fault or negligence of his own, thrown from his wagon, striking on his spine, which injury has resulted in permanent paralysis of both legs. Since that time he has lain upon his bed almost wholly helpless, requiring the constant care of an attendant.

Dr. Charles H. Boynton, a prominent physician and gentleman of high character, testifies that about March, 1883, he examined claimant with reference to a contraction of the ligaments and muscles of his right leg, caused by a cut in the knee soon after his return from the Army, and a disability in his feet, alleged to have been caused by walking a long distance on trestle work while in said service. That he again examined claimant on February 29 last, and that at said examination he found Rich's disabilities substantially the same as they were a year previous. The right knee is still entirely stiff and the leg drawn up to an angle of about 45 degrees, by a contraction of the muscles and ligaments. The toes of both feet still overlap each other and the joints are enlarged. There is no improvement in either of them.

This affidavit was received by the writer of this report through A. A. Woolson, of Lisbon, N. H., who states that no worthier soldier shouldered a musket in the late war. Many others of his neighbors testify to the good character of the claimant and his present great disability.

The committee is clearly of opinion that had it not been for the bad condition of the blood because of the malarial exposure in service, the slight cut received after discharge, as aforesaid, would not have resulted in permanent disability, and therefore report favorably on the bill, amended, however, by striking out the word "thirty," in line seven, and inserting therein the word "twenty-four," and thus amended, ask that it do pass.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1211.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 3701.]

*The Committee on Pensions, to whom was referred the bill (H. R. 3701) granting a pension to James Bradford, have examined the same and report favorably, recommending its passage.*

The facts are stated in document No. 1 and the House report, both of which are submitted herewith.

The case reveals clearly the fact that but for the application of very rigid and technical rules of evidence, the misfortune of loss of testimony by death and otherwise, the claim would have been allowed by the Pension Office.

No. 1.

*A brief statement of the facts in the case of James Bradford, an applicant for invalid pension by special act of Congress, because of the impossibility of meeting all the requirements of the Pension Department in procuring evidence.*

[His story as told by himself, his veracity being vouched for by the statements of prominent citizens of Concord, N. H., his place of residence for the past eighteen years.]

I, James Bradford, of Concord, N. H., on oath depose and say:

That I was born at New London, Conn., November 20, 1843, my father being John Bradford, and my mother Mary Bradford. My father is said to have died just after my birth, and my mother about one and one-half year after, and I have no recollection whatever of either of them. My first recollection is of an old lady who took me in upon the death of my parents, and with whom I lived until I was about ten years old. Her name was Hannah Brainerd, but she was poor, and when I was some ten years old, I had to commence to get my own living; this I did by going to sea on the coasters and shore vessels which sailed from New London, as cabin-boy or in any capacity where I could get a chance. Mrs. Brainerd died soon after my first trip, and after this for many years I had no home or abiding place, and lived almost entirely on the vessels where I could get work, so that from my circumstances and the nature of my occupation, I made but few acquaintances, and none of a permanent character.

The longest time that I remember of staying on any one vessel was about one year, and that on the Galota, of Hyannis, Mass. I was then about sixteen to eighteen years old, and a strong, healthy lad. In the spring of 1862, a Nova Scotia vessel was wrecked on the coast and a gang of Nova Scotia men camped at Groton, Conn., for the purpose of breaking it up, and I worked for them as cook; among them was Charles K. Buzzell, whom I have known ever since, but I have never met any of the others and suppose they returned to Nova Scotia. I left them about August 20, 1862, and shipped as cook on the Hero, of Nova Scotia, which I left at Baltimore, Md., September 19, 1862, being then a strong, rugged, and healthy young man, about nineteen years old. There I enlisted on the receiving-ship Allegheny, and in a few days left with a squad of men for Fortress Monroe, it being then understood that our destination was the frigate Minnesota, at that place. On arrival, however, we learned

that its quota had already been received from Brooklyn and we were ordered to the store-ship Brandywine. This store-ship was already crowded with some fourteen hundred men and my hammock was slung between decks, just under a leak in the upper deck, because I had no choice. The hammocks had to be kept slung during the day, as there was no chance to store them in the hammock-nettings, and the leakage of moisture from the upper deck, occasioned by rain or washing, soon permeated my blankets and mattress so that they were constantly damp, with no chance for drying; and from thus being obliged to sleep in damp bedding, I was soon prostrated with rheumatic pains, which first attacked the back of my neck and from thence spread all over my body, so that I became entirely incapacitated for duty. I had never before this had an attack of rheumatism. Soon after this and at date of October 14, 1862, I was entirely unable to walk or help myself, and was removed to United States naval hospital at Portsmouth, Va., and there remained under treatment for rheumatic paralysis, until April 16, 1863, when the surgeons pronounced me incurable and I was discharged from the service for disability. When I left the hospital, I did so on crutches, and was furnished with transportation to Boston, Mass.

While still in Boston, in October, 1863, I made the application, No. 443, for naval invalid pension. In the winter following I went to Cape Ann, Massachusetts, where I remained until June, 1865, when I came to Concord, N. H., where I have ever since resided. During all this time I have been more or less affected with the rheumatic trouble which commenced on the Brandywine, the muscular action of the lower limbs being permanently affected, so that I walk only with great difficulty.

I have furnished to the Pension Office the evidence of said Charles K. Buzzell, who knew me before my enlistment, and who knew that I was then a strong, healthy man, but after trying all these years I am forced to admit my inability to furnish other evidence on that point, because all the acquaintances I then had were among seafaring men, whose residences outside their ships I did not know. I do not know the whereabouts of a single individual, aside from Buzzell, with whom I ever had any acquaintance previous to my enlistment, and it therefore becomes an absolute impossibility for me to furnish any other evidence of my physical condition at that time, as required by the rules of the Pension Department. For similar reasons it is impossible for me to furnish any evidence from shipmates, for I was with them so short a time that I am unable to remember their names, and even if I could, it is doubtful if they could recollect me, who was a stranger to all of them up to the time we were thrown together on the Brandywine, where I was in their company less than a single month. Dr. Timothy Haynes has treated me for rheumatism more or less ever since I came to Concord, and his affidavit is on file, and I have also been examined by the Government board of examiners, whose report, I presume, is also on file.

I have been able thus far to earn a livelihood at the trade of a stone-worker, which I learned after coming to Concord, and can work perhaps half or two-thirds of the time, but only with a great deal of difficulty, on account of the condition of my feet and ankles. I am willing to work, and propose to work as long as I can; but I feel that my ability to labor was very greatly diminished by my service in my country's cause, and I trust that my Government may consider my patriotic intention in offering those services, although I was unfortunately prevented from rendering the assistance which I hoped and expected at the time of my enlistment.

Concord, N. H., December 18, 1883.

JAMES BRADFORD.

STATE OF NEW HAMPSHIRE,
*Merrimack, ss:*

DECEMBER 24, 1883.

Personally appearing the above-named James Bradford, made oath that the foregoing statement by him subscribed was true.

Before me.

HENRY ROBINSON,
*Justice of the Peace.*

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We, the undersigned, citizens of Concord, N. H., are well acquainted with James Bradford, an applicant for Navy invalid pension, and unhesitatingly believe that the statements made by him in his case are correct; his reputation for truth and veracity is excellent, and all his dealings since our acquaintance with him have been those of an honest, upright, honorable, and unusually conscientious man, whose industrious habits, notwithstanding his physical condition, are deserving of commendation.

Edgar H. Woodman, mayor of Concord; Frank S. Streeter, attorney; Geo. A. Cummings, ex-mayor; Omar L. Shepard, postmaster, West Concord; Daniel Holden, manufacturer; Frank P. Mace, stationer; Harrison Partridge, assessor; Geo. P. Cleaves, general secretary; Frank D. Woodbury, printer; Darius Merrill, assistant, pension office; Albert G. McAlpine, granite dealer; Paul R. Holden, manufacturer.

DEPARTMENT OF THE INTERIOR, PENSION OFFICE,
*Washington, D. C., April* 10, 1883.

SIRS: In the claim of James Bradford for Navy invalid pension, No. 443, I have to inform you that the evidence recently filed is not sufficient to change the status of his case.

The records show that he was admitted to hospital in less than one month after his enlistment, with rheumatism. Inasmuch as the claimant has alleged inability to furnish the testimony of a commissioned officer or shipmates to show the origin of his disability in the line of duty, or to furnish satisfactory testimony showing his freedom from rheumatism prior to his enlistment, this office must refuse to take further action in his case, and its former action in rejecting the same must be affirmed.

Very respectfully,

WM. W. DUDLEY,
*Commissioner.*

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[House Report No. 960, Forty-eighth Congress, first session.]

He made an application for a pension in October, 1863; the following winter went to Cape Ann, Mass., and staid there until June, 1865, when he went to Concord, N. H., where he has resided ever since. During all this time he has been affected with the same rheumatic trouble which commenced on the Brandywine, the muscular action of his legs being permanently affected, so that he walks only with great difficulty. Charles K. Buzzell, who knew him, testifies that the claimant was a strong, and healthy robust man before enlistment, but the claimant is unable to furnish other witnesses on that point, because all the acquaintances he had were seafaring men whose residences outside of their ships he did not know, and therefore the claimant has found it impossible to furnish the additional testimony as to his physical condition previous to enlistment, required by the Pension Office.

There is no doubt in regard to the good character of the applicant. Prominent citizens of Concord, including the mayor and other reliable men, certify that Bradford's reputation for truth and veracity is excellent. It appears that Dr. Timothy Haynes, a good physician, but recently deceased, treated Bradford for chronic rheumatism ever after he came to Concord.

The Pension Office, April 10, 1883, rejected the application for the following reasons:

"Inasmuch as the claimant has alleged inability to furnish the testimony of a commissioned officer, or shipmates, to show the origin of his disability in the line of duty, or to furnish satisfactory testimony showing his freedom from rheumatism prior to his enlistment, this office must refuse to take further action in his case."

There is no doubt about the enlistment and the acceptance by the Government of Bradford's services. He remained in the service about seven months, and although the greater portion of the time he was sick from rheumatic paralysis, your committee have no reason to doubt the statement made under oath by the claimant as to the origin of his disease; the presumption is entirely in his favor that he was sound at the time of his enlistment into the service. He is corroborated on this point by the affidavit of Buzzell, and his claim is also confirmed by the certificates of well-known citizens of Concord, who vouch for his truth and veracity.

Your committee therefore feel bound to make a favorable report and recommend the passage of the accompanying bill, with an amendment striking out the words in lines 4, 5, and 6, "as of the date of his discharge from the United States service for disability."

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1212.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany petition of Edward Kelly.]

*The Committee on Pensions, to whom was referred the petitiou of Edward Kelly, asking for a pension, have examined the same, and report as follows:*

That in 1880 said Kelly filed his original application for invalid pension, alleging chronic rheumatism, contracted near Washington, D. C., about 15th July, 1863. In transmitting the papers in the case to the committee the Commissioner of Pension states that "the claim awaits testimony relative to origin of disability and condition of applicant at date of discharge, called for in a communication of recent date." As the claim is still pending in the Pension Office, it should be there determined before Congress interferes.

The committee recommend that the prayer of the petitioner be not granted, and that the committee be discharged from its further consideration.

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48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1213.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following:

# REPORT:

[To accompany bill H. R. 8033.]

The Committee on Pensions, to whom was referred the bill (H. R. 8033) granting a pension to George W. Clark, have examined the same, and report favorably, recommending its passage.

Mr. Clark, in addition to almost total helplessness, has, from the amputation of his leg, suffered from imperfect healing, and, as age increases, the disability grows constantly worse.

The principal remaining facts are stated in the House report:

George W. Clark, private Company E, Twelfth New Hampshire Volunteers, enlisted August 19, 1862; discharged June 2, 1865. He was wounded by the explosion of a shell while in the line of duty at the battle of Swift Creek, Virginia, at or near Bermuda Hundred, May 9, 1864, which resulted in the amputation of his right arm and right leg. The stump of his leg is some 6 or 7 inches in length. The arm is amputated just below the elbow. He now draws a pension of $36 per month. He is compelled to have an attendant to assist him, more or less, every day, in dressing and undressing and otherwise. He is without any means except his pension.

Your committee make a favorable report, and recommend the passage of the accompanying bill granting him $50 per month hereafter.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1214.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. VAN WYCK, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 7707.]

*The Committee on Pensions, to whom was referred the bill (H. R. 7707) granting a pension to Holden Cook, have examined the same, and report as follows:*

That said Holden Cook was a soldier in the Thirty-first Regiment United States Infantry, in the Indian country, and by exposure was injured in the eyes and became totally blind.

Your committee recommend that the bill pass.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1215.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. VAN WYCK, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 2443.]

*The Committee on Pensions, to whom was referred the bill (S. 2443) granting an increase of pension to Polly Young, have examined the same, and report as follows:*

That Polly Young is now ninety-three years of age, and receiving a pension of $8 per month by reason of service of her husband in the war of 1812. The history of her family shows remarkable loyalty and devotion to the Republic, dating from the Revolutionary War. Her grandfather and four brothers were in that war. Her husband and three of her brothers were in the war of 1812. She had three sons. All did honorable and long service in the late rebellion. One of these sons, now an old man, furnishes from his small means her support in an humble way.

Every year the number of this class of aged pensioners is becoming less, while the infirmities of age increase and the necessity for care and attendance greater.

A Government, generous in its benefactions to the widows of those of high rank and brilliant service, can well afford to be just and generous to the widows of those who suffered and fought in the ranks, particularly when misfortunes render necessary aid from some quarter to smooth the pathway to the grave.

The committee recommend that the bill above referred to do pass.

O

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1216.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. VAN WYCK, from the Committee on Pensions, submitted the following

## REPORT

[To accompany bill H. R. 5813.]

*The Committee on Pensions, to whom was referred the bill (H. R. 5813) granting a pension to Rachael Smith, have examined the same, and report as follows:*

That Mrs. Rachael Smith, as appears from the papers accompanying said bill, was the dependent mother of Andrew M. Smith, who enlisted in Company E, Twenty-sixth Ohio Volunteer Infantry, on the 19th day of June, 1861, and served until July 25, 1865, when he was honorably discharged from the service; that during the entire term of his said service he was the sole and only support of his mother, said Rachel Smith, as he had been before he enlisted in the service; that after his discharge from the service he continued to support his mother until he was intermarried with Miss Mary E. Work, when she became an inmate of his family, and so continued until his death; that on the 8th day of February, 1873, a pension at the rate of $4 per month beginning from the 9th day of December, 1872, was granted to said Andrew M. Smith by the Commissioner of Pensions, Hon. J. H. Baker; that on the 9th day of February, 1872, said pension was increased to $24 per month upon the order of said Commissioner of Pensions; that on the 5th day of May, 1876, said Andrew M. Smith died; that thereupon his widow, Mary E. Smith applied for a widow's pension, which was granted to her from and after the death of her said husband, which pension she divided with the said Andrew M. Smith's mother, said Rachael Smith; that on the 17th day of July, 1880, the widow of said Andrew M. Smith, Mary E. Smith, remarried, in consequence whereof said pension lapsed. Therefore, the said dependent mother, Rachel Smith, prays that she may be granted a pension as said dependent mother.

Your committee, in view of the above recited facts, as shown by the papers, recommend the passage of said bill.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1217.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. VAN WYCK, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 6965.]

*The Committee on Pensions, to whom was referred the bill (H. R. 6965) granting a pension to David T. Dudley, have examined the same, and report as follows:*

That this soldier enlisted in Company C, Fourth Michigan Volunteers, June 20, 1861, and was discharged June 13, 1864. He was taken prisoner at the battle of Gettysburg, July 2, 1863, and was confined at Richmond until August 29, when he was paroled. He claims to have contracted rheumatism and diarrhea while a prisoner of war. Two of his comrades, S. Morse and W. J. Munroe, testify that he was sound and well up to the time of his capture; that when returned to his command he was sent to the hospital to be treated for rheumatism and diarrhea. The hospital records show that he was treated for intermittent fever, which is not inconsistent with the testimony of the comrades above referred to. Orderly Sergeant F. G. Halstead testifies:

He was taken prisoner with me while in line of duty; was well while on the march to prison, and was stricken down with the rheumatism about the last of July, 1863, and was very bad off from the first, and grew worse, until he was unable to help himself. That I did take care of him the most of the time until his release, which I think was in August, 1863. This disease was contracted while in Belle Isle, Va., a prisoner of war, taken in the battle of Gettysburg, July 3, 1863.

He further says his knowledge of the above facts is obtained from the following source, viz:

That I was with him most of the time during his service in our company, and having the care of him while sick on Belle Isle. That I saw him in 1865, and he was suffering from the same disease.

November 28, 1881, Dr. M. M. Butler testifies that he has been claimant's family physician since 1872, and that he has been and still is suffering with rheumatism and diarrhea.

July 20, 1881, the examining surgeon at Plattsmouth, Nebr., certifies that he finds the right leg smaller than the other, measuring 2 inches less in circumference. That he finds his disability from rheumatism to be one-half, his disability from diarrhea nothing. The case was rejected in the Pension Office on the ground "that there was no record of alleged disease," &c.

Your committee, after a careful examination of the papers in the case, find that he has clearly proven that he was taken prisoner at Gettysburg; that he contracted rheumatism and diarrhea while confined at Belle Isle, and that it has continued ever since, and therefore recommend the passage of the bill.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1218.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. VAN WYCK, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 7315.]

*The Committee on Pensions, to whom was referred the bill (H. R. 7315) granting a pension to Frederick P. Dearth, have examined the same, and report:*

The claimant was the father of Edwin D. Dearth, a private in Company H, Fifty-second Regiment of Illinois Volunteers. The soldier enlisted September 24, 1861. He served faithfully until the battle of Corinth, October 3, 1863, when he was taken prisoner. Near the close of that month he was paroled and sent to Benton Barracks. The following March he was returned to his regiment, near Corinth, Miss., and on the 21st of August, 1863, he died in the military hospital of dysenteria. The soldier's mother died in 1850. The trustee of Louisville Township, Pottawatomie County, testifies:

> That by virtue of his office he is overseer of the poor; that Frederick P. Dearth, for more than one year past to date (May 29, 1883), has been a pauper and supported at the public expense; that I have been for several years acquainted with Mr. Dearth, and know him to be a worthy man; and that he has not property of any kind out of which he can support himself.

The claimant testifies that he had property to the value of $200 when his son died; that he was in part dependent on his son for support, and that his son died leaving no wife or child. Claimant is now in his eighty-first year, old and decrepit, and unable to furnish the evidence required by the Pension Department showing his dependence on the soldier at the time of the latter's death.

While the evidence furnished establishes the facts stated above, they are not sufficient to justify the Pension Department in granting a pension, but it makes a case which Congress ought to act upon promptly by the immediate passage of the bill.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1219.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. VAN WYCK, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 2138.]

The Committee on Pensions, to whom was referred the bill (H. R. 2138) granting a pension to Martha Angell, have examined the same, and report that the proof is abundant that her husband served during the war of the rebellion from September 10, 1861, to December 23, 1864; from hard marching in West Virginia was prostrated, and the nervous disability resulted in St. Vitus's dance, from which he died September 3, 1876, and recommend passage of the bill.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1220.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 1113.]

*The Committee on Pensions, to which was referred the bill (S. 1113) granting a pension to Ann E. Manchester, has examined the same, and reports:*

That Abel W. Manchester was enlisted on the 2d of October, 1846, at New York, to serve five years, and was assigned to Company E, Seventh Regiment of United States Infantry, and served until September 1, 1851. His marriage with the said Ann E. Manchester is established, and they continued to live together as husband and wife to the date of his death, which occurred November 2, 1870.

The widow applied for a pension and her application was rejected, "because the records of the War Department do not show the existence of heart disease (which caused the soldier's death, November 2, 1870) in the service, and applicant is unable to show that said disease had its origin in the service." This is the statement of the Commissioner of Pensions to the committee.

The records of the War Department do show that the soldier served during the Mexican war, and that he is reported sick at Pueblo, Mexico, June 30, 1847, and again October 31, 1847, and again at Jefferson Barracks, Mo., October 31, 1848, but do not state the nature of sickness.

It is in evidence that the soldier was sick when he returned home in 1851, and that he had at that time heart disease; that he continued disabled from said disease until he finally died. The widow has been unable to furnish the evidence of officers of her husband's company, because they are all dead, and they are so reported by the Adjutant-General of the Army. But she has furnished the evidence of persons acquainted with him, and who establish his disabled condition from the year of his discharge to the time of his death.

In the opinion of your committee there is sufficient evidence to justify a favorable report on the bill, and it is accordingly so reported, with a recommendation that it do pass.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1221.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 2302.]

*The Committee on Pensions, to which was referred the bill (S. 2302) granting a pension to John Lowe, has examined the same, and reports:*

That the said John Lowe was mustered into the service of the United States as a private in Company G, Fifty-third Indiana Volunteers, October 15, 1864, and was discharged July 22, 1865. He claims to have contracted rheumatism while on the march from Raleigh, N. C., to Washington, D. C., April and May, 1865, and on account of which he filed a claim for a pension April 15, 1879. The claim was rejected May 9, 1884, for the reason, as stated in the letter of the Commissioner of Pensions transmitting the papers in the case to the committee, that—

> The records of the War Department fail to show the existence of the alleged disability in the service, and there is no medical evidence showing treatment in the service or at discharge, &c.

But it does appear from the evidence before the committee that the soldier was a sound man at date of entering the service; that he complained of the disease while in the service; that it has affected him ever since his discharge; that his degree of disability has been rated by examining surgeons at from three-eighths to three-fourths, and the board of surgeons which last examined him reports his disability as probably permanent.

Your committee reports the bill to the Senate with a recommendation that it do pass.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1222.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 6196.]

*The Committee on Pensions, to which was referred the bill (H. R. 6196) granting a pension to R. D. Lawrence, has examined the same, and reports:*

That in the opinion of the committee this case should have been allowed by the Pension Office. An examination of the record and evidence in the case amply supports the report of the Committee on Invalid Pensions of the House of Representatives, which is here adopted, and is as follows, viz:

Your committee, having under consideration the bill H. R. 6196, respectfully report that R. D. Lawrence was a private soldier in Company E, First Regiment Michigan Light Artillery. He enlisted December 24, 1863, and was discharged May 20, 1865. The basis of his claim for pension is that he was attacked by lumbago and piles while at Nashville, Tenn. After the original declaration was made he stated that he did not intend to apply for pension on account of lumbago, but that he had the disease and was much distressed in the back on entering the hospital, but when the piles appeared and bled, the lumbago disappeared. The claim was rejected by the Pension Department on the ground that—

"There is no record of piles, and claimant's inability to furnish satisfactory testimony connecting said disease with the service."

The report of the Adjutant-General shows that the claimant was in the hospital three times in the year 1864, but does not state with what disease he was afflicted, but the report shows that he was in hospital most of the time after first admission, in 1864, to May 20, 1865.

Sanford Birtz, a comrade, testifies to claimant's soundness prior to enlistment.

He is unable to furnish the testimony of a commissioned officer as to the origin of his disability while in the service, but he does furnish the testimony of Surgeon Myers, who was in charge of post hospital, Nashville, Tenn., to the effect that—

"Claimant had charge of the linen-room of said hospital, and conducted his duty as faithfully as his condition would permit, as during that time he was suffering from lumbago, from which he had not recovered at the date of his discharge."

John H. Evans swears, July 21, 1882—

"That he is well acquainted with the claimant, and in 1866 he came to his brother's house quite sick with piles, for which he was attended by Dr. Hycoff for some time and then went to Buffalo general hospital, and was still suffering from the same disease when he left the hospital. Was a great sufferer from piles while he knew him in 1866."

The standing of this witness is good.

The claimant has been unable to furnish medical testimony showing continuance of the disease from 1866 because his parents are dead, as is also his family physician. August Mellon testifies that he has been acquainted with the claimant during the past sixteen years, and swears that he has been afflicted with piles during the whole time. Dr. J. L. Bicknell, superintendent of the Buffalo general hospital, furnishes a certificate, dated March 26, 1879, in which he says:

"According to our hospital record, R. D. Lawrence entered the Buffalo general hos-

pital April 18, 1866, was treated for triple lesions and for hemorrhoids, and was honorably discharged May 15, 1866. He again entered the hospital August 20, 1867, and was discharged the 27th of the same month. Treated for hemorrhoids."

The surgeon of the hospital at the National Military Home, Dayton, Ohio, says that the claimant was admitted for treatment August 30, 1867.

The examining surgeons, Drs. J. S. Beck, H. S. Jewett, and A. S. Dunlap, at Dayton, Ohio, December 29, 1880, report that—

"He has hemorrhoids external; they come down very badly and bleed profusely at times. They are now down, forming an external tumor about the size of a walnut. There are now also two small fistulous openings that discharge slightly."

There seems to be no room for doubt but that the claimant has been a constant sufferer from the time of his being in the service down to the present time with the disease for which he claims a pension, and your committee recommend the passage of the accompanying bill.

The bill is accordingly reported to the Senate with a recommendation that it do pass.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1223.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 1502.]

*The Committee on Pensions, to which was referred the bill (H. R. 1502) granting a pension to William Robinson, has examined the same, and reports:*

That the report of the Committee on Invalid Pensions of the House of Representatives, made to that body, makes a circumstantial statement of this case, as follows, viz:

*The Committee on Invalid Pensions, to whom was referred bill H. R. 1502, beg leave to make the following report:*

This claim for pension is based on military service rendered the Government as a scout and guide for the United States Army in the years 1863 and 1864. Claimant was first employed under General Julius White, from the 5th day of September to the 17th day of November, 1863. He was next employed under General Phil. Sheridan, from the 15th day of December, 1863, to the 17th day of January, 1864, at which latter date Col. James T. Shelley, of the Fifth Tennessee Infantry, assumed command of the post at Loudon, Tenn., and claimant continued to serve under him until the 4th day of April, 1864. Colonel Gibson, of the Second Ohio Heavy Artillery, succeeded Colonel Shelley in command of that post, and claimant served under Colonel Gibson from the 10th day of April to the 12th day of June, 1864, at which date Col. M. L. Patterson, Fourth Tennessee Infantry, relieved Colonel Gibson, and claimant continued to serve in the same capacity under Colonel Patterson until October 28, 1864. It will thus be seen that he served in the capacity as scout for more than one year, and the evidence shows that he was subject to orders and military regulations and discipline the same as if he had been an enlisted man. That he strictly obeyed and faithfully executed orders is also clearly shown.

And General Julius White explicitly testifies that, by virtue of authority from his superior officers, he employed claimant as a scout and guide, and expressly agreed that his pay should be that of a captain of cavalry. Still the records of the War and Treasury Departments show that he has been paid but the trifling sum of $500 for more than twelve months' arduous and dangerous service.

The testimony shows that he was recognized as ranking with a captain of cavalry, and that as such detachments and scouting forces were required to report to him, and made subject to his orders in their movements. The testimony of General White, under whom he was first employed, supported and fully corroborated by General Burnside, and that of Colonels Byrd, Shelley, Patterson, and a large number of other officers, soldiers, and citizens, clearly shows that his services were important and valuable to the military service and movements of the Federal Army.

The Secretary of War and Third Auditor of the Treasury, in reporting on his military service, likewise bear testimony to its efficiency and value. While engaged in this service he contracted sore eyes, that complaint being then epidemic among the soldiers of the command under which he was rendering service, from which he afterwards became totally blind, and has remained in that condition ever since, without the remotest possibility or faintest hope of recovery of any degree of eyesight. He is stark blind, and the eyeballs gradually wasting away. In his memorial to Congress, asking to be placed on the pension-rolls, among other things he says:

"That in the latter part of July, 1864, and while serving in the capacity of scout under Lieut. Col. M. L. Patterson, of the Fourth Tennessee Infantry, commanding United States forces at Loudon, Tenn., your petitioner contracted sore eyes, which disease was at that time prevalent among the soldiers of that military post and vicinity, and that he received treatment for said disease from Dr. A. W. Gregory, a civil physician residing in that locality. That in the latter part of September or first of October, 1864, he was sent by the said Colonel Patterson on a very hazardous expedition to the southern part of Monroe County, Tennessee, and within the lines of the enemy, and while on that service was obliged to swim his horse across Little Tennessee River twice during one day, and that in so doing his person got very wet, which resulted in his contracting a bad cold, which, settling in his eyes, greatly aggravated the aforesaid disease of his eyes, which continued to grow worse up to the date of his quitting the service. That after the termination of his service as a scout your petitioner suffered continuously from said disease until the 10th day of August, 1866, when he suddenly experienced a severe pain in his eyes and became totally blind, which condition has continued up to the present time; and during said period of blindness he has not only been unable to perform any manual labor whatever, but his condition has required the constant aid and attendance of other persons."

These facts, as thus stated in his memorial, are all fully sustained by Drs. Gregory, Blair, and Harrison, so far as his disease of the eyes and the results therefrom are concerned, all of whom are reputable gentlemen and physicians of high standing. Dr. Gregory first treated him, and corroborates claimant's own statements in his memorial. Drs. Blair and Harrison also treated him and verify his own and Dr. Gregory's statements. Col. M. L. Patterson, under whose orders he was acting when attacked with sore eyes, and when he was compelled to swim the river on his horse and thus caught cold, corroborates and sustains his statements thoroughly. And his service, disease, and present condition are proven by many other witnesses, among whom are Col. R. K. Byrd, James T. Shelley, and other officers of the Army at the time, known to be good citizens and of high character.

In the opinion of your committee claimant is as much entitled to a pension as if he had been regularly enlisted, enrolled, and mustered as a soldier. This committee can see no propriety in showing a distinction based on the formalities of entering the military service, as between enlisted men and scouts. The latter service was concededly the most perilous of any.

We think pensions should be granted in meritorious cases, whether the claimant was an enlisted man, and mustered into the military service, or a civilian employed by the proper authority to perform military service.

The basis of the pension should be the military service and disability incurred while in the discharge of duty in that service. In this case the proof is plenary and absolutely conclusive as to every necessary fact, as well as that the claimant is now old and in pinching financial circumstances. In consideration of the premises, your committee report back the bill and unanimously recommend its passage.

An examination of the papers in the Third Auditor's Office, and supplied thereto by the War Department, and the proofs presented by the said Robinson in support of his petition for a pension, verifies the substantial and material facts recited in the said report, and the bill is therefore reported with a recommendation that it do pass.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1224.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 4098.]

*The Committee on Pensions, to which was referred the bill (H. R. 4098) granting a pension to William Gibbons, has examined the same, and reports:*

That an examination of the record and evidence in this case verifies the report made to the House of Representatives by the Committee on Invalid Pensions of that body, and which is as follows, viz:

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4098) granting a pension to William Gibbons, respectfully report:*

That William Gibbons enlisted in the military service of the United States, as a private in Company F, Nineteenth Regiment Massachusetts Volunteers, July 25, 1861, and was honorably discharged June 30, 1865.

September 6, 1872, he filed a declaration for pension, which was amended by a supplemental petition filed March 9, 1883, alleging injury of the head, received July 5, 1862, near the James River, as follows: While procuring water at a spring he was attacked by three men, who knocked him down and struck him in the head with the butt of a pistol; and that while in the line of duty at the battle of Gettysburg, Pa., on or about July 3, 1863, he received a saber wound of right leg and sprain of thumb of right hand in the retaking of cannon from the enemy, and the sprain was caused by a fall backward with his gun under him in his hand; which was rejected May 3, 1882, on the ground of no disability since discharge.

William A. Hill, lieutenant, Company F, Nineteenth Massachusetts Volunteers, testifies, September 6, 1872: That claimant in the discharge of his duty, about July 5, 1862, procuring water from a spring near regimental camp, on the James River, near Harrison's Landing, was attacked by three or four persons, not soldiers, and received a wound in the head from a pistol in the hands of one of the men. He was disabled in consequence and was treated in regimental and general hospital. Said disability has affected him ever since. He was in sound health at the time of his enlistment.

J. Franklin Dyer, regimental surgeon, Nineteenth Massachusetts Volunteers, testifies, September 6, 1872: That about July 5, 1862, while in the discharge of his duty, claimant, while procuring water from a spring near regimental camp, was attacked by three or four men, not soldiers, and received a wound in the head from a pistol in the hands of one of the men, and was under treatment for such in regimental and general hospitals. Said injury has been the cause of disability since, and has affected him seriously, rendering him unable to labor a part of the time.

G. P. Pratt, assistant surgeon, Nineteenth Massachusetts Volunteers, testifies, March 10, 1879: That claimant was wounded at Harrison's Landing, Va., and at Gettysburg, Pa., and from these wounds he has been partially disabled ever since. He was favored by being put on the color guard on account of the wounds, and was after in the hospital for the same.

Patrick Kelly, private, Company F, Nineteenth Massachusetts Volunteers, testifies, September 6, 1872: That he was detailed with claimant to bring water from a spring or brook at Harrison's Landing, after the seven days' retreat in 1862. That three men

attacked them, who came in the direction of the river (not soldiers), but had revolvers, and the three men attacked him at once, and when he saw he could not help him ran towards camp and reported the attack, and fears that claimant had been killed. He was a tent-mate with him, and he was not brought into camp until next morning, when he was covered with blood and severely cut about the head and weak from the loss of blood. After this attack, he complained always of pain and dizziness in his head.

George McKinney and G. E. Franklin, both of Company I, Nineteenth Massachusetts Volunteers, testify that claimant was at the time of his enlistment in sound health; that they saw him after the battle of Gettysburg, Pa., and he was then disabled from a severe flesh wound in the right knee, and his right hand was bandaged; that they have seen claimant often since his discharge and know that he is disabled to that extent that he cannot perform full manual labor.

Joseph R. Webster, M. D., testifies that claimant bears the scars of wounds upon his head and upon the inside of his right knee and has varicose veins of the right leg. That the wound of his head is still tender upon pressure; that since receiving the wound he suffers from pain in the head and dizziness, and from defective sight, in consequence of which he is so incapacitated for labor as to be unable to perform more than one-third of manual labor; that the wound of the right knee was inflicted by the sword of a rebel officer at Gettysburg, and that his leg has given him trouble since 1864.

J. E. Keating, M. D., corroborates the above evidence.

A number of the close and intimate neighbors of claimant testify as to his disability at the time of his return home and to the present time.

It is shown conclusively that the soldier was in sound bodily health prior to and at the time of his enlistment in the military service of the United States.

James H. Straight, United States examining surgeon for Middlesex County, Massachusetts, certifies, November 15, 1872:

"This applicant is suffering from results of a blow upon the head. There is a cicatrix about two inches long and a slight depression at junction of parietal bones with frontal bone, with some tenderness over cicatrix. He suffers from headache, loss of memory, and defective vision, and is unable to earn a full subsistence. I examined him November 15, and have retained his certificate in order to find something of his previous history, as defective vision might have resulted from some other cause, but find that he was perfectly healthy and really suffers from the injury received. Disability, one-half and permanent."

September 10, 1879, claimant was examined by a board of United States surgeons of Boston, Mass., who report his disability one-half, and that his disability was due to his Army service.

September 7, 1881, he was again examined by a board of United States surgeons at Boston, who find his disability due to his military service, and that his disability is one-half.

After the first examination by the examining surgeon a memorandum attached to the brief in the case says:

"The Surgeon-General's report shows a record of syphilis, and directs a careful examination to be made, in order to see to what extent his present disability is attributable to that disease."

October 17, 1883, claimant was again examined by a board of United States surgeons, but this time he was sent to Worcester, Mass. This board report:

"We find a scar 'inside' of head, of right tibia, 3 inches in length, with very large varicose veins of calf running up thigh; calf much enlarged, and leg somewhat lame. Disability one-half for saber cut and varicose veins. There is no evidence showing this soldier's present disability to be due to or in any way attributable to syphilis."

Your committee find the disability of this soldier is clearly due to his military service, and that it is shown to continue from his discharge to the present, and the disability is so clearly defined that four medical examinations agree upon the precise degree of the disability, and make substantially the same rating in his case, and therefore recommend the passage of the accompanying bill.

The bill is accordingly reported to the Senate with a recommendation that it do pass.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT. No. 1225.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 1984.]

*The Committee on Invalid Pensions, to which was referred the bill (H. R. 1984) granting a pension to Robert M. McKinlay, has examined the same, and reports:*

That an examination of the record and evidence in this case sustains the statement of the case by the Committee on Invalid Pensions of the House of Representatives, and which is as follows, viz:

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1984) granting a pension to Robert McKinlay, have had the same under consideration, and submit the following report:*

Robert McKinlay was a private in Company M, Sixth Iowa Cavalry; that he enlisted September 20, 1862, and was discharged October 17, 1865.

The application for pension was filed April 3, 1866, and rejected.

The petitioner in his original application claims pension on account of injury received about July 1864, at Fort Rice, Dak., while acting provost guard, and endeavoring to secure a horse that had broken loose from the picket fire. He claims that the horse gave a sudden leap, pulling the line through his hand up to the pin, which gave his arm a sudden and powerful jerk, partially dislocating his arm at the elbow.

There is no record on the company reports or the regimental hospital register from June, 1864, to October, 1865.

Capt. J. B. Williams, of Company M, Sixth Iowa Cavalry, testifies that claimant was a member of his company, and corroborates the statement of the soldier relative to the circumstances of incurrence of his disability.

Martin R. Duestow, late orderly sergeant of same company, testifies his recollection of claimant receiving an injury of his right arm in July, 1864, at Fort Rice, but cannot remember the circumstances; also, that he knows that claimant received some treatment either from the surgeon or hospital steward for said injury, and that claimant was a sound and able-bodied man when he enlisted.

Dr. G. M. Stables testifies that he personally and professionally knew Robert McKinlay, and knew his condition shortly after his discharge from the Army, in October, 1865, and claimant was then suffering from an injury to right arm at the elbow. Dr. Staples also certifies, in September, 1870, he examined the claimant and found him suffering from slight atrophy of the right arm, with impaired motion of the elbow-joint of said arm, as shown by inability to fully extend it.

E. R. Shanklin testifies that he has known claimant since 1856, and that he employed claimant in the year 1862, until about the period of his enlistment, and that since his return from the Army he has worked very little at his business, the carpenter trade, in consequence of an injury alleged to have been received while in the military service.

C. W. Belden, secretary of the Board of Examining Surgeons, certifies that by reason of the injury mentioned the claimant is one-fourth incapacitated for manual labor.

Your committee consider that the evidence before them justifies a favorable report in the case, and we therefore recommend the passage of the bill (H. R. 1984) granting a pension to Robert McKinlay.

The bill is accordingly reported to the Senate with a recommendation that it do pass.

O

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1226.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 7561.]

*The Committee on Pensions, to which was referred the bill (H. R. 7561) to allow a pension to George F. West, has examined the same, and reports:*

That the report of the Committee on Invalid Pensions of the House of Representatives states this case correctly, and is as follows, viz:

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7561) to increase the pension of George F. West, late a corporal of Company I, Fifth Regiment of Wisconsin Infantry Volunteers, report as follows:*

That said soldier is now receiving a pension of $24 per month for the loss of his left leg, taken off about 3 inches below the knee; that the amputation was performed on the field of battle where the wound was inflicted, very hastily and without due care, the result of which was a poor operation, there being no flesh left to cover the end of the bone, on account of which, together with the shortness of the stub below the knee, it is impossible for him to wear an artificial limb, and that a second amputation would be dangerous to life.

Your committee would therefore recommend an increase of said pension to the amount allowed for the loss of a leg above the knee, and report in favor of the passage of said bill.

Concurring in this report the committee returns the bill to the Senate with a recommendation that it do pass.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1227.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5798.]

*The Committee on Pensions, to which was referred the bill (H. R. 5798), granting a pension to John E. Denham, has examined the same, and reports:*

That your committee can but concur with the declaration of the Committee on Invalid Pensions of the House of Representatives that the person named in this bill is entitled to a pension. He served in the United States Marine Corps from 1856 to 1864. There is no question that the man is disabled. This is made to appear from both non-professional and medical evidence. The last official medical examination rates him at one-half disability. The only question of doubt in the case is as to whether the disability was incurred in the service or prior thereto. It seems improbable that the latter was the case. The disability is inguinal hernia, and one board of examining surgeons says that it is irreducible. The committee is of the opinion that the disability was incurred in the service and in line of duty. The bill is therefore reported with an amendment, as follows:

Strike out after the word corps, in the seventh line, the words "and grant him a pension of eight dollars a month from the passage of this act."

And with this amendment the committee recommends the passage of the bill.

48TH CONGRESS, 2d Session. | SENATE. | VIEWS OF MINORITY. No. 1228.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

# VIEWS OF THE MINORITY:

[To accompany bill H. R. 4280.]

The minority of the Committee on Pensions, dissenting from the views of the majority in relation to the bill (H. R. 4280) granting a pension to Mrs. Martha C. Breese, respectfully recommend the passage of the bill for the reasons stated in the House report, which is as follows:

Mrs. Breese is the widow of Kidder Randolph Breese, late a captain in the United States Navy, of whom Admiral Porter has well said: "There was no officer during the war who performed more valuable service than he did." And referring to Mrs. Breese's application to Congress for an increase of her pension, Admiral Porter says: "I hope sincerely that she will not be disappointed in this matter, for if ever the widow of an officer deserved to be taken care of by the Government, it is the widow of Captain Breese."

Captain Breese served all through the campaign of the Mississippi, through the siege of Vicksburg, and the opening up of the river to the sea, and always with the most distinguished bravery and self-sacrificing conduct. He was fleet captain of Admiral Porter's fleet at the storming of Fort Fisher, and the heroism with which he led the forlorn hope of naval officers and sailors that assaulted the works by land is a bright page in the history of the civil war and is the common heritage of American citizens.

"But," says Admiral Porter, referring to Captain Breese's part in the campaign of the Mississippi, "he, no doubt, laid the first seeds of disease on those rivers, for he was never well after he left there." Captain Breese died while on sick-leave, September 13, 1881, leaving no estate—nothing for his family to live upon. The widow of this hero is now dependent upon her small pension of $30 a month, and the trifling amount of $2 allowed each of her four little children, she having absolutely no other source of income. Can Congress refuse to grant her an increase of $20, all she asks? The committee believe not. Certainly her case appeals strongly to the Government, and the committee recommend the passage of the bill for her relief.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1229.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 4266.]

*The Committee on Pensions, to whom was referred the bill (H. R. 4266) granting a pension to Margaret A. Ringwalt, have examined the same, and report:*

The facts are stated at length in the report of the Committee on Invalid Pensions of the House of Representatives, made during the last session (House Report No. 1836), as follows:

That Margaret A. Ringwalt is the dependent sister of Lewis Ringwalt, who enlisted in the military service of the United States as a private in Company F, Seventeenth Regiment Pennsylvania Volunteers, September 15, 1862, and was killed in action near Newtown, Va., by guerrillas October 11, 1864.

It appears that claimant is the sister of the deceased soldier, and lived with and was supported wholly by the soldier prior to his enlistment in the military service of the United States, and the fact that he contributed his pay as a soldier for the support of claimant is shown by the letters written to claimant at the time of sending the money, and by the testimony of the neighbors of claimant.

It is shown that claimant was never married, leaves neither father nor mother surviving, and that when nine years of age she lost the sight of the left eye, and that she is now unable to perform any labor, as she has been an invalid for years, and is now over seventy-one years of age and without any means, and entirely dependent upon the charity of neighbors and friends for her maintenance.

It is also shown that the soldier was never married.

The manner of the death of the soldier is shown by the following extract from a special correspondent of the New York Tribune, writing from Sheridan's army near Starsburg, Va., October 11, 1864, and which was published in the New York Tribune of October 18, 1864:

"A courier, arrived at headquarters at an early hour this morning, brings a report that the chief quartermaster of the Army, Lieutenant-Colonel Tolles, and Dr. Ohlenberger, medical inspector of the Army, had been shot by guerrillas on the road near Newtown. About 9 o'clock p. m. two ambulances came in, bringing both these gentlemen, mortally wounded. A brave old soldier named Lewis Ringwalt, belonging to Company F, Seventeenth Pennsylvania Cavalry, one of the escort, was also brought in. Colonel Tolles had a bullet wound in the back of his head, and one in his body. His face was also badly scarified, as if he had fallen from his horse, or had been dragged over the rough pikes. The officers were returning from Martinsburg, with an escort of twenty-five men, and when about half way between Newtown and Middletown, a company or guerrillas, led by 'White,' numbering from fifty to seventy-five, suddenly charged out of a belt of woods from the left of the road, firing as they came, and calling out to the officers to surrender. Seeing they were outnumbered, the escort endeavored to escape, but being well mounted the rebels overtook or cut them off, the officers being left in the rear. For some distance it was a running fight, in which the guerrillas had the advantage in numbers, being the pursuing party. The escort evidently did more running than fighting, only a portion of them using their carbines to any advantage. Ringwalt evidently fought with desperation, as he had one finger shot off, a serious scalp wound, and a mortal wound through the body.

Ringwalt says the officers surrendered. Colonel Tolles's orderly says the same. Dr. Ohlenberger also surrendered; but the rebels rode close up to them, and putting their pistols to their heads fired, inflicting mortal wounds. One of our men was killed, named Samuel Deardorp, and seven were wounded. Ringwalt shot one of the guerrillas, and with the assistance of a part of the escort six or seven were wounded. The officers and men were robbed of money and watches. While the rebels were engaged in stripping their victims, a party of infantry, who were accompanying a train, were seen coming up, and the guerrillas made off, taking one of our ambulances for their wounded. They carried off about half of the escort as prisoners.

"Colonel Tolles and Dr. Ohlenberger, with the wounded private, Ringwalt, were placed in ambulances and brought to General Sheridan's headquarters, where their wounds were dressed. Both officers were pronounced to be mortally wounded.

"The event has produced a sentiment of profound grief at the headquarters of the Army. Colonel Tolles was a most valuable officer, and a gentleman who had become greatly endeared to the officers during a long connection with the service. It is the general remark that he had no superior in the Army as an able and efficient quartermaster. He was a captain in Fifteenth Infantry.

"Dr. Ohlenberger was also an officer of rare ability, and a gentleman who enjoyed the esteem and affection of a wide circle in the Army. They will be a great loss to the Army.

"*October* 12.—Lewis Ringwalt died early this morning. His family live near Carlisle, Pa. His faithful and soldierly conduct during this treacherous and overpowering attack upon the officers whom he was guarding entitles his memory to respect, and his dependent family to the clemency of the Government.

"E. S."

The Philadelphia Press, of Wednesday, October 26, 1864, says:

"DEATH OF A GALLANT SOLDIER.

"Lewis Ringwalt, a sergeant in Company F, of the Seventeenth Pennsylvania Cavalry, died on the 12th instant, near Strasburg, Va., from the effects of wounds received from guerrillas on the day previous, while gallantly guarding the medical inspector of Sheridan's army. As we have before stated, Lewis Ringwalt died on the 12th instant. The case of this brave soldier is entitled to more than ordinary notice. Surrounded by a large and influential circle of relatives and friends, residing near Carlisle, Pa., he was early impressed with the conviction that it was his religious duty to go forth and battle for his country, and while he had frequent opportunities for promotion, he declined them all, and preferred remaining in an humble position. The writer of this article knew him well, and has frequently heard of the valor he displayed on more than one occasion. His death will be deeply deplored, not only by his immediate family and a large number of our citizens in the locality where he lived, but by his fellow-soldiers, to whom he endeared himself by his kind and genial manner, and by the coolness and bravery he manifested in many perilous engagements."

December 17, 1883, Gen. P. H. Sheridan certifies to the death of Lewis Ringwalt, by wounds received from guerrillas, between Winchester and Fisher's Hill, in October, 1664.

December 31, 1879, claimant filed her declaration for pension, which was rejected June 20, 1883, on the ground that the evidence filed by claimant shows that at date of soldier's death she was over sixteen years of age, therefore not entitled under the law.

Your committee find claimant was dependent on the deceased soldier for maintenance and support, and is now in her old age deprived of her means of support by the casualties of the late war, and therefore recommend the passage of the accompanying bill.

Your committee have heretofore reported favorably upon similar applications to this of defendant's sister, who came within the spirit but not the letter of the general pension laws, and therefore report back this bill with a recommendation that it do pass.

O

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1230.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 2245.]

*The Committee on Pensions, to whom was referred the bill (S. 2245) granting a pension to William N. Morris, have examined the same, and report:*

The claimant, William N. Morris, enlisted June 12, 1861, and served until discharged, August 8, 1865. He filed an application, alleging gunshot wound of left leg between the knee and ankle at the battle of Chickamauga, and gunshot wound of left hip at Selma, Ala.; also weakness of back and chronic diarrhea.

The claim was apparently at first approved for the gunshot wound of left hip, but afterwards rejected on the ground of no disability since discharge therefrom. The examining surgeon certified in 1882, describing the injury to the left hip, that in that case there was no disability, but rated the soldier at one half for the other gunshot wound. It is difficult to understand why the Department did not allow the pension for the disability certified to by the surgeon, and alleged in the declaration, there being no question as to its incurrence in the service, being a gunshot wound received in battle.

There is considerable testimony as to his prior soundness, and that he has been seriously disabled since his return home. The testimony of neighbors and friends seems to show this very clearly.

James C. Gibson, a comrade, testifies as to the incurrence of the gunshot wound in the hip at Selma.

William H. Voorhees, a comrade, in an affidavit filed since the rejection of the case, says that he did not see the claimant struck, but saw him almost immediately afterwards, and that he was wounded in the left ankle at Chickamauga.

Your committee are of opinion that the claimant was twice wounded in battle, and, as it appears from the certificate of the examining surgeon that he is now one-half disabled from the same, report the bill with a recommendation that it do pass.

O

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1231.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 2522.]

*The Committee on Pensions, to whom was referred the bill (H. R. 2522) granting a pension to John Q. Bellville, have examined the same, and report:*

The claimant, John Q. Bellville, was a private in Company D, First West Virginia Light Artillery. He enlisted August 20, 1862, and was discharged December 31, 1862, after serving about four months. He made application and was granted a pension in 1878 for right inguinal hernia at $4, from January 1, 1863. He was allowed arrears at the full amount recommended by the examining board of surgeons in 1878.

November 13, 1882, claimant applied for an increased rating on account of loss of right arm in February, 1864. It appears from all the papers in the case that claimant was assisting in firing a salute in honor of the return home of the First Regiment, West Virginia Volunteers, when there was a premature discharge of the cannon by reason of which he lost his right fore-arm. The application for an increase by reason of such loss was therefore properly rejected by the Department because the disability was incurred after the claimant's discharge from the service.

The Commissioner of Pensions also states in his letter to the committee that the claimant is entitled to an increased rating on account of his disability from the hernia, for which he was pensioned by the decision of the honorable Secretary of the Interior, made April 3, 1884, and that upon a return of the papers the increase will be promptly adjudicated.

Your committee do not feel warranted in recommending an increase of pension on account of an accident which occurred long after he left the service. He will receive an increased rating for his other disability at the Department if entitled thereto.

The bill is therefore reported back with a recommendation that it be indefinitely postponed.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1232.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 765.]

*The Committee on Pensions, to whom was referred the bill (H. R. 765) for the relief of Emily Agnel, have examined the same, and report:*

That a bill substantially the same as the present was considered during the last session of the present Congress by this committee (S. Report No. 510) and has since passed both branches of Congress.

Your committee therefore recommend that the present bill be indefinitely postponed.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1233.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 6966.]

*The Committee on Pensions, to whom was referred the bill (H. R. 6966) granting a pension to Wealthy H. Seavey, have examined the same, and report:*

That the facts appear to be correctly stated in the report of the Committee on Invalid Pensions of the House of Representatives, made during the last session of this Congress (H. R. Report No. 1924), as follows:

That Charles W. Seavey, when an infant, was adopted by the claimant as her own child. She brought him up and he always resided with her till his enlistment as a private in Company I, Seventh Regiment Maine Volunteers, in 1861. Mrs. Seavey had the benefit of his earnings before his enlistment, and he frequently sent her money from his earnings after going to the war—at one time $5, at another $30, and at another $100. Mrs. Seavey was a widow when her adopted son enlisted, and is a widow now. The son died while in the service and in the line of duty. There is no question about her dependence upon the deceased for support. A pension was allowed her at the Pension Office, but was shortly afterwards stopped, because the deceased was not her own son. The correspondence of the soldier with Mrs. Seavey during his Army service has been produced, and shows clearly that the deceased called the claimant his mother, and it is clear that he treated her as such from infancy to his death.

Mrs. Seavey now is an old lady, in feeble health, and entirely without means of support. The deceased left no near relatives who ever took any interest in him during his lifetime or since his decease. The only reason for disallowing the pension at the Pension Office was because the claimant was not his natural mother. Your committee recommend the passage of the bill.

The Commissioner of Pensions states that the name of this claimant was dropped from the rolls for the reason that the soldier was her adopted son, and that the office must decline to consider the claim for restoration as, under existing laws, a dependent mother can only be pensioned for the service and death of her own son.

Your committee having favorably considered cases of this character heretofore are of opinion that this case comes within the spirit, if not the letter, of the laws, and therefore report back the bill, with a recommendation that it do pass.

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48TH CONGRESS, 2d Session. | SENATE. | Views of minority REPORT No. 1234.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

# VIEWS OF THE MINORITY:

[To accompany bill S. 1079.]

*The minority of the Committee on Pensions, dissenting from the views of the majority in relation to the bill (S. 1079) granting an increase of pension to Mrs. Emily M. Wyman, have examined the same and report:*

The claimant is the widow of Robert Harris Wyman, late rear-admiral United States Navy. She was pensioned April 17, 1883, at $30 per month from February 1, 1883, the date of filing her application. A bill has been introduced to increase this amount to $50 per month, in compliance with the following letter from the Secretary of the Navy addressed to the chairman of this committee:

NAVY DEPARTMENT, *December* 20, 1883.

SIR: I have the honor to transmit herewith a draft of a bill granting an increase of pension to Mrs. Emily M. Wyman, widow of the late Rear-Admiral Robert H. Wyman, U. S. N. In view of the long and honorable service of the late Rear-Admiral Wyman in the Navy, and of the statements to the Department by his widow in regard to her necessitous circumstances, I have to request that the proposed bill may be introduced for her relief.

Very respectfully,

W. E. CHANDLER,
*Secretary of the Navy.*

The following statement or abstract of the service of Rear-Admiral Wyman has been furnished by the Secretary of the Navy:

Robert H. Wyman was appointed a midshipman in the Navy March 11, 1837, and ordered the same month to the Independence, where he remained until June, 1840, when he was detached and granted three months' leave; September, 1840, ordered to the West India squadron, and served on board the Levant, Concord, and Potomac until August, 1842, when he was detached from the last-named vessel and granted three months' leave; August, 1842, ordered to the Naval School at Philadelphia; May, 1843, ordered to examination for promotion.

June, 1843, ordered to the On-ka-hye; July, 1843, warranted as passed midshipman, from the 29th June, 1843.

August, 1843, detached from the On-ka-hye and ordered to the Perry as acting master; was transferred from this vessel to the Brandywine, and detached from the latter ship in September, 1845, and granted three months' leave; then to the receiving-ship at Boston, where he remained until March, 1846, when he was detached and ordered to the Princeton as acting master.

He was transferred from this vessel to the Porpoise, and served on these two vessels during the Mexican war.

Was present at the siege of Vera Cruz. June 1847, he was detached from the Porpoise and granted three months' leave; July, 1847, ordered to the naval rendezvous at Boston, Mass.

He was detached and ordered to the Albany as acting master in September following, where he remained until January, 1848, when he was detached (sick) and placed

on waiting orders. February, 1848, he was ordered to the Naval Observatory, and remained on this duty until June, 1848, when he was detached and ordered to the receiving ship at Boston as acting master; he was detached in June, 1850, and placed on waiting orders.

September, 1850, ordered to the St. Mary's; July, 1850, promoted to lieutenant; he was detached from the St. Mary's in December, 1852, and granted three months' leave.

February, 1853, he was ordered to the Naval Observatory, where he remained until October, 1854, when he was detached and ordered to the practice ship Preble. He remained attached to this vessel until October, 1856, when he was detached and placed on waiting orders.

November, 1856, he was ordered to take passage from New York in the Wabash for duty on the St. Mary's, then at Panama. He was transferred to the Independence, and in August, 1857, was directed to rejoin the St. Mary's; January, 1859, he was detached from the St. Mary's and ordered to the navy-yard, New York. He was detached from this duty in April, 1859, and ordered to the practice ship Plymouth, where he remained until August, 1860, when he was detached and ordered to the Richmond, remaining on board this ship until July, 1861, when he was detached and ordered to command the Yankee.

October, 1861, he was detached from command of the Yankee and ordered to command the Pawnee, where he remained about one month, when he was detached (sick), and placed on waiting orders. Was present at the taking of Port Royal.

December, 1861, ordered to command the Potomac flotilla: June, 1862, detached from this duty and ordered to command the Sonoma, and served on James River. July, 1862, promoted to commander. September, 1862, detached from command of the Sonoma and ordered to command the Wachusett, where he remained until November following, when he was detached and ordered to special duty at Washington, D. C.

March, 1863, he was detached and ordered to command the Santiago de Cuba at Havana, where he remained until August following, when he was detached and ordered to report at the Department.

May 10, 1865, he was ordered to command the Colorado; was transferred to the command of the Ticonderoga, and detached from that vessel in April, 1869, and placed on waiting orders.

July, 1866, was promoted to captain.

October, 1869, ordered to the Hydrographic Office, and the following October he was directed to take charge of that office, and remained in charge until January, 1879, when he was ordered to command the North Atlantic Station.

July, 1872, was promoted to commodore.

April, 1878, promoted to rear-admiral.

May, 1882, was detached from command of the North Atlantic Station and placed on waiting orders.

May 25, 1882, was ordered as member of the Light-House Board, and was afterwards made chairman of said Board.

He died at Washington, D. C., on the 2d of December, 1882, of disease contracted in the line of duty in the service.

In view of the long and distinguished services of the late Admiral Wyman, and of the foregoing recommendation of the Secretary of the Navy, and of the granting of the rate proposed in many similar cases by recent special acts of Congress, your committee report this bill favorably, and recommend its passage.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1235.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1885.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 5762.]

The Committee on Pensions, to whom was referred the bill (H. R. 5762) granting a pension to Ann Lumphrey, have examined the same and report favorably, recommending its passage.

The facts are stated in House report. There can be no reasonable doubt of the evidence of these three medical gentlemen.

[House Report No. 1367, Forty-eighth Congress, first session.]

That Ann Lumphrey is the widow of Oliver Lumphrey, late first lieutenant First New York Lincoln Cavalry. Said Oliver Lumphrey enlisted as private in Company C, First Regiment New York Cavalry, July 19, 1861, for three years. He re-enlisted as a veteran volunteer January 1, 1864, for three years, and was on the rolls as sergeant, and later as sergeant-major. April 3, 186 , while gallantly leading a charge in battle at Wipponie Creek, Virginia, he received a gunshot in the left leg, by reason of which it was amputated in the upper third of thigh, leaving a 3-inch stump. June 13, 1865, he was discharged for promotion to first lieutenant, same regiment. He died January 4, 1876, and it is alleged that the loss of his left leg was the cause of his death. The widow is unable to furnish medical evidence satisfactory to the Pension Department that such is the fact. She has submitted the testimony of Dr. Johnson W. Marsh, Dr. Nathan F. Brown, and Dr. Samuel Trudell, three reputable physicians, who state as follows:

"Johnson W. Marsh, being duly sworn, deposes and says he is a physician and surgeon in regular practice; that he resided in Springwells, Wayne County, Michigan, from 1875 to 1879, a period of four years. That he was well acquainted with Oliver Lumphrey, deceased, during his life-time, and treated him prior to his last illness for an affection of the heart (not organic) attributable to the condition of his nervous system plainly traceable to and connected with constant irritation of the sciatic nerve, from which he was never free; and further says he is of the opinion that said irritation of the sciatic nerve was caused by the amputation of the leg; that he attended deceased in his last illness, and in his opinion the life of said Lumphrey was not only shortened, but that death was proximately caused by amputation of his leg."

"Nathan F. Brown, being duly sworn, deposes and says he is a regular practicing physician and surgeon; that he was acquainted with Oliver Lumphrey, deceased, and was frequently called upon to attend him and his family; that said Lumphrey frequently complained of severe pain which he suffered in the stump of his amputated limb; that he believes that the amputation of the thigh caused such irritation of the large nerves, direct and reflex, that his death was hastened by such pain and irritation."

"Samuel Trudell, being duly sworn, says he resides in Detroit; is a practicing physician and surgeon; that he was acquainted with Oliver Lumphrey, deceased; was frequently called to attend him in his life-time and prescribed for him, prior to his last illness, for an affection of the heart (not organic), attributable to the condition of his nervous system, plainly traceable to and connected with constant irritation of the sciatic nerve, and that it was caused by amputation of the leg of deceased; that he consulted with Johnson W. Marsh in the last illness of Lumphrey, and is of the opinion that his death was proximately caused by amputation of his limb and plainly traceable to that cause."

The only question in this case seems to be, Was the death of said soldier attributable to his military service? And while the evidence submitted in the case may not be entirely satisfactory to the trained and discriminating mind of the medical reviewers, still learned doctors often disagree, and in this case three credible surgeons think his death was hastened by the loss of his limb; and your committee can fairly conclude that in granting the relief asked no injustice will be done to the Government; and as the widow is poor and has a family of children to support, they recommend that the bill do pass.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1236.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 12, 1885.—Ordered to be printed.

Mr. MILLER, of California, from the Committee on Foreign Relations, submitted the following

# REPORT:

[To accompany bill S. 2635.]

The Committee on Foreign Relations beg leave to report a bill "to permit Thomas O. Osborn, minister resident and consul-general of the United States at Buenos Ayres, to receive a symbolic shield from the Argentine Republic," and to recommend its passage, submitting in this connection the following letter from the Secretary of State, viz:

DEPARTMENT OF STATE,
*Washington, February* 5, 1885.

SIR: In a note of the 19th of December, 1883, from the Argentine minister of state to Mr. Thomas O. Osborn, minister of the United States at Buenos Ayres, complimentary reference is made to the then recent services of Mr. Osborn rendered in the settlement of a boundary question between that Republic and Chili; and he is requested to accept, in commemoration thereof, a "symbolic shield," properly engraved.

I have now the honor to ask that your committee will introduce a measure enabling Mr. Osborn to accept the proposed gift, which he has, of course, thus far declined to receive.

I have addressed a like request to the corresponding committee of the House.

I have the honor to be, sir, your obedient servant,

FRED'K T. FRELINGHUYSEN.

Hon. JOHN F. MILLER, &c.,
*Committee on Foreign Relations, Senate.*

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1237.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 12, 1885.—Ordered to be printed.

Mr. MILLER, of California, from the Committee on Foreign Relations, submitted the following

# REPORT:

[To accompany S. Res. 121.]

The Committee on Foreign Relations, to whom was referred the message of the President "in relation to the steamship Alert," having considered the same, beg leave to report herewith, and recommend the passage of a "joint resolution to authorize the return to Her Britannic Majesty's Government of the Arctic relief steamer Alert."

In this connection the committee also submit the following letter from the Secretary of the Navy:

NAVY DEPARTMENT,
*Washington, February* 9, 1885.

SIR: I have the honor to acknowledge the receipt of your letter of the 4th instant, wherein you make certain inquiries relating to the present condition of the Arctic relief steamer Alert, and request this Department to prepare a draft of such a measure as Congress should pass in order that effect may be given to the opinions expressed by the President, in his message of the 30th ultimo, recommending the return of the Alert to her Britannic Majesty's Government.

In reply I have to inform you that, upon her arrival in this country, the Alert was repaired and thoroughly fitted for her expected work by this Department, at an expense of about $60,000. After her return she was laid up in ordinary at the navy-yard, New York, where she now is. She is in excellent condition, and no appropriation will be needed to enable her to be returned to Great Britain.

Inclosed herewith is a draft of a joint resolution, such as you desire.

For the further information of the committee, I also inclose a copy of a letter relating to the subject of the final disposition of the Alert, which was addressed by this Department, on the 23d ultimo, to Hon. G. A. Boutelle, chairman Subcommittee on Naval Affairs, House of Representatives.

Very respectfully,

WM. E. CHANDLER,
*Secretary of the Navy.*

Hon. JOHN F. MILLER,
*Chairman Committee on Foreign Relations, United States Senate.*

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1238.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 12, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill S. 1400.]

*The Committee on Claims, to whom was referred the bill (S. 1400) for the relief of Edward C. Garlick, having examined the same, make the following report:*

The bill proposes to pay Edward C. Garlick $1,262 as compensation for lumber and timber belonging to him, which was used, detained, and lost in part, by the officers and agents of the Government during the years 1867 and 1868, while engaged in building and repairing the Government pier at Cleveland, Ohio. Garlick presented his claim to the Engineer's Department for allowance and payment. The matter was pending for a number of years. In January, 1872, General A. A. Humphreys, Chief of Engineers, by Special Order No. 8, appointed a Board of Engineers to convene at Cleveland to investigate the claim and report the facts of the case, together with the amount of damage, if any, that may have accrued to Mr. Garlick by virtue of the use and detention of his lumber up to May 28, 1868. The Board met, and after carefully investigating the case, made their report setting out all the material facts of the case, as follows:

On the 15th day of October, 1866, a contract was made by Colonel Cram with Dwight, Palmer & Wright for the delivery of 270,000 feet B. M. more or less, of timber of specified dimensions, to be used in construction of the piers at the harbor of Cleveland, Ohio. This contract was sublet by Dwight, Palmer & Wright to a Mr. Davidson. On the delivery of this material in June, 1867, a part was rejected by Colonel Cram's inspector because the dimensions did not conform to those specified in the contract; it was permitted, however, by the inspector to be landed upon the west pier, and to be piled in the same pile with the part that had been accepted.

The rejected timber as it lay upon the west pier was subsequently sold by the owner to Mr. E. C. Garlick, of Indianapolis, Ind., who was furnished with an order on D. E. Bailey, at the time, constructor and inspector for the timber, which order Mr. Garlick presented to Bailey, offering to pay the cost of handling the timber, but Bailey refused to deliver it without a written order from Colonel Cram. In the meanwhile, July 9, 1867, Mr. S. W. Mifflin was appointed inspector by Colonel Cram. Mr. Garlick made a written application to Colonel Cram for permission to remove the timber, which he had bought and which, being on Government ground, was in fact in possession of the Government.

This application was answered under date of January 28, 1868, by a letter from Colonel Cram to Mr. Mifflin, of which the following is an extract:

"By a miserable arrangement on the part of the man who furished the timber to the United States and the inspector who received it, the timber (of which there was considerable) that did not come up to the specification was permitted to remain in the pile with that which was accepted, with the understanding that when the contractor, in handling over the timber for his use, should come to the rejected sticks those should be laid out and the owner might remove them and not before. You will please

inform Garlick that I will not direct Bailey to check out this rejected timber until he comes to it, in the progress of framing, as agreed upon, nor will I permit the timber to be disturbed by any one but Bailey or in his presence. If Mr. Garlick can wait until he comes to it, very well; otherwise, and on his attempt to disturb it, you will please prevent him."

But further, Colonel Cram says he gave Bailey authority to deliver at any time all timber to Davidson, supposing him to be the rightful owner, or upon his order, that did not belong to the United States. In answer to this Bailey says that Colonel Cram *verbally* authorized him to deliver the timber, if he chose, but warned him at the same time that if he did deliver it, and if the timber for the Clevéland pier should afterwards fall short, he, Bailey, should be held responsible for the shortage, and that, therefore, he, Bailey, refused to have anything to do with the matter. As Mr. Bailey refused to accept the terms under which he could deliver the rejected timber, the Board finds that Colonel Cram's verbal instructions to Mr. Bailey do not embody a permission for the delivery of the timber. The timber was not disturbed by Garlick or by any one acting for him, but lay upon the west pier with the accepted timber, at the time Maj. Walter McFarland relieved Colonel Cram of the improvement (May 28, 1868).

The Board finds that whatever obstacle had stood in the way of Garlick's getting his timber prior to May 28, 1868, was at that date removed, though Mr. Garlick did not become acquainted with the fact until the following September; that up to September, 1868, the Government had used and paid for of this rejected timber 26,380 feet B. M., that 13,666 feet B. M. had been destroyed or stolen, and that only 64,492 feet B. M. in a damaged state were left.

As the rejected timber was allowed to be piled with the accepted timber, through the negligence or want of judgment of Colonel Cram's inspector, and as Colonel Cram would not permit its subsequent release except on conditions that made the inspector liable for the money value of any shortage, which conditions were rejected, the Board is of the opinion that as the injury was done by an agent of the Government acting in an official capacity, the Government should be held responsible for the money value of the damage. Although the evidence in regard to the cause of the detention is conflicting, the Board, after a careful examination of the matter, is convinced that an injustice was done to Mr. Garlick, and find that the compensation due him for damage sustained is the difference between the market value of the timber at the time it was delivered and the market value of the amount that remained on the pier at the time Mr. Garlick became aware that he could take it away. The average market value of the rejected timber at the time of delivery is estimated at $23 per 1,000 feet B. M. and at the time Mr. Garlick could have received itat $6 per 1,000 feet B. M.

*Damage to Mr. Garlick by the findings of the Board.*

| | | |
|---|---|---|
| For 104,538 feet B. M., at $23 | | $2,404 37 |
| Deduct 64,492 feet B. M., at $6 | $386 95 | |
| Amount paid by Major McFarland | 755 40 | |
| | | 1,142 35 |
| Amount due | | 1,262 02 |

There being no further business before the Board, it adjourned *sine die.*

WALTER McFARLAND,
*Major of Engineers.*
G. L. GILLESPIE,
*Captain of Engineers.*

In March, 1872, General Humphreys, Chief of Engineers, submitted said report and findings of the Board to the Secretary of War, with the suggestion that—

The claim of Mr Garlick partakes of the character of damages, and I am not satisfied that authority exists for its paymant by an executive officer, but that it rather belongs to subjects within the province of the Court of Claims. Perhaps the Judge-Advocate-General of the Army might aid the Engineer Department with his opinion upon the subject. The papers in the case are herewith submitted.

The Secretary of War referred the papers and questions thus submitted to the Judge-Advocate General of the Army, J. Holt, who, under date of March 18, 1872, returned the same, with the following indorsement:

Respectfully returned to the Secretary of War. This is a claim for unliquidated damages on account of timber belonging to claimant which has been used, detained,

lost, and damaged in certain proportions by the acts of persons representing the United States. It is clear that its settlement is beyond the authority of an Executive Department. At the same time, as it is apparently an equitable demand, the loss of claimant having been fixed at a certain sum ($1,262) by a board of officers, it is conclued that the case may be favorably commended to Congress by the Secretary of War, if the claimant should think proper to have it submitted to that body.

This was approved by the Secretary of War, under date of March 20, 1872. The claimant thereupon applied to Congress for relief, and, at the second session of the Forty-second Congress, the claim was favorably reported upon by the House Committee on Claims, and a bill for claimant's relief passed the House, but was not acted upon in the Senate. The case has since been pending before Congress, without action being had thereon.

Your committee do not concur in the correctness of the theory upon which the Board of Engineers proceeded in reaching its conclusions, "that as the injury was done by an agent of the Government, acting in an official capacity, the Government should be held responsible for the money value of the damage." Applying this principle, the Board found that the compensation due the claimant for damage sustained was the difference between the market value of the timber at the time it was delivered and the market value of the same at the date Garlick could have removed it. This difference was estimated at $17 per thousand, board measure, which the Board reported should be paid by the Government. Assuming that the action of the officer in charge was wrongful in refusing to allow the removal of the lumber, your committee do not consider that the Government, under the facts and circumstances of this case, should be made liable in damages for such wrongful act.

The claimant has been fully compensated for so much of his lumber as was used by the Government, which, as shown by the report, amounted to 26,380 feet B. M, for which Major McFarland paid him the sum of $755.40. For the 13,666 feet B. M. reported as lost or stolen, and the 64,492 feet B. M. left in a damaged state, in the opinion of your committee there is no valid claim against the Government.

Your committee accordingly report back the bill to the Senate, with the recommendation that it do not pass.

The following table, made at the Post-Office Department, will show the exact condition of the Elgin office from 1880 to 1883, inclusive:

ELGIN, ILL.

| Period. | Salary. | Class. | Rent. | Fuel. | Light. | Clerks. | Gross receipts. | Box-rents and commissions. |
|---|---|---|---|---|---|---|---|---|
| 1880 | $2,500 | 2 | ..... | ..... | ..... | *$1,000 | $10,331 | $4,325 |
| 1882 | 2,800 | 2 | †$200 | †$75 | †$65 | †2,000 | 14,571 | 5,961 |
| 1883 | 3,100 | 1 | 200 | 75 | 65 | ‡3,000 | 57,446 | 13,813 |

* October 1, 1879. † October 1, 1882. ‡ July 1, 1883.

It has been for some time the settled policy of the Committee on Post-Offices and Post-Roads to disallow all claims of this character for clerk hire, where the expenditures exceed the allowances of the Department, even when recommended by the Department, as is done in this case. (See accompanying letter of the Acting First Assistant Postmaster-General to Hon. R. Ellwood.) But, in view of the extraordinary and exceptional circumstances surrounding this claim, the annual gross receipts of the office suddenly increasing from $14,571, on April 1, 1882, to $57,446 on July 1, 1883, by which increase the Government was largely benefited, and the claimant asking for but $650 per quarter for clerk hire when $750 was afterwards allowed him by the Department for the same service, your committee deems it proper, and, in the interest of justice, trusts that the relief asked for may be afforded.

It therefore recommends the passage of the bill without amendment.

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[Post-Office Department, Office of the First Assistant Postmaster-General, Salary and Allowance Division.]

WASHINGTON, D. C., *March* 13, 1884.

SIR: Your letter of the 2d inst., to the Postmaster-General, relative to claim of Mr. John K. Le Baron, late postmaster at Elgin, Ill., to be reimbursed in the sum of $1,000 for clerk hire alleged to have been paid by him in excess of the amounts allowed by the Department, has been referred to this office.

In reply, you are informed that Mr. Le Baron was appointed as postmaster December 20, 1881, and his successor appointed January 21, 1884.

It appears from the records of this office that the allowance for clerk hire from October 1, 1879, until October 1, 1882, was $1,000. At the last-named date the allowance for clerk hire was increased to $2,000 a year, although the postmaster claimed at that time that he was compelled to pay $2,800 for clerk hire.

On the 1st July, 1883, upon the reports of two inspectors, who visited the office, the allowance for clerk hire was increased to $3,000 a year.

It also appears from the records that the gross receipts of the Elgin office for the four quarters ended March 31, 1882, amounted to $14,571, and by the adjustment made on the four quarters ended June 30, 1883, the gross receipts were shown to be $57,446.

* * * * * * *

I have no hesitation in saying that a reasonable sum should be allowed to reimburse Mr. Le Baron, as postmaster, for the additional sums he paid for clerk hire over and above the amounts allowed by this Department.

The Department would have made ample provision for the expenses of the Elgin office if the appropriations applicable for the purpose would have warranted it.

Very respectfully,

JAMES H. MARR,
*Acting First Assistant Postmaster-General.*

Hon. R. ELLWOOD,
*House of Representatives, Washington, D. C.*

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1240.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 12, 1885.—Ordered to be printed.

Mr. SEWELL, from the Committee on Military Affairs, submitted the following

# REPORT:

[To accompany bill S. 1668.]

*The Committee on Military Affairs, to whom was referred the bill (S. 1668) for the relief of George T. Dudley, having considered the same, respectfully report:*

The committee beg to present, and make a part of their report, the following letters of the Secretary of War and Adjutant-General of the Army, and also the statement of Lieut. George T. Dudley:

WAR DEPARTMENT,
*Washington City, May 27, 1884.*

SIR: I have the honor to acknowledge the receipt of your letter of the 24th instant, inclosing the copy of the general court-martial orders, No. 17, headquarters Army of the Potomac, May 19, 1865, in the case of First Lieut. George T. Dudley, Fiftieth New York Volunteer Engineers, previously furnished to you by this Department, and requesting to be informed as to the specifications in the case, in order to the verification of statements made by Lieutenant Dudley in connnection with a bill for his relief now before the Senate Committee on Military Affairs.

In reply, I beg to inclose herewith a copy of the charges and specifications in the case in question, made from the proceedings of the court-martial in the case, and to return, in accordance with your request, the copy of the general court-martial orders, No. 17, received with your above-mentioned letter.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
*Secretary of War.*

Hon. BENJAMIN HARRISON,
*Of Committee on Military Affairs,*
*United States Senate.*

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WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
*Washington, May 2, 1884.*

SIR: I have the honor to return herewith a letter of the Hon. Benjamin Harrison, United States Senator, of the 22d ultimo, inclosing a bill (S. 1668, Forty-eighth Congress, first session) for the relief of George T. Dudley, late first lieutenant Fiftieth New York Volunteer Engineers, and requesting any information touching the matter that may be found of record in the Department, and to report as follows:

The records of this office show that George T. Dudley was originally mustered into service as first lieutenant, Company I, One hundred and third New York Volunteers, to date March 20, 1862, and honorably discharged, on tender of resignation, September 30, 1862.

He re-entered the service as first lieutenant, Company M, Fiftieth New York Volunteer Engineers, February 19, 1864, to serve three years, and was "dishonorably dismissed the service of the United States, with loss of all pay and allowances," May

19, 1865, by sentence of general court-martial, promulgated in General Court-Martial Orders No. 17, of that date, Army of the Potomac, copy herewith.

On June 3, 1865, the Secretary of War directed that the sentence of general court-martial in the case of Lieutenant Dudley be revoked and he be honorably mustered out with his regiment.

June 9, 1865, the same was returned to the Secretary for further instructions, with the statement that "the usual practice of the Department in these cases is simply to remove the disability resulting from dismissal, thus allowing the officer to re-enter the service upon a new commission." This was submitted to the Secretary on June 10, 1865, who directed that action in the case conform to established regulations. Thereupon Special Orders No. 294, paragraph 59, was issued from this office on June 10, 1865, the text of which is as follows:

"By direction of the President, the disability resulting from the dismissal of First Lieut. George T. Dudley, Fiftieth New York Volunteer Engineers, is hereby removed, and, *upon the receipt of a new commission by him from the governor of New York*, it is ordered that he be mustered into service, and honorably mustered out of service with his regiment."

He was recommissioned by the governor of New York as a first lieutenant in the same company and regiment June 12, 1865, and his commission was forwarded to him on June 13, 1865; but as his company was mustered out of service at Fort Berry, Virginia, on that date (June 13), he could not, under then existing laws, orders, and regulations, be mustered in on his new commission, or recognized as an officer subsequent to the date of his dismissal by sentence of general court-martial.

The removal of the disability resulting from dismissal was simply an assurance and declaration that if the dismissed officer was recommissioned by the governor of his State he would be permitted to re-enter the service of the United States.

It is held there is no authority existing to revoke, annul, set aside, or modify a duly confirmed and executed sentence of a general court-martial.

I am, sir, very respectfully, your obedient servant,

R. C. DRUM,
*Adjutant-General.*

The Hon. SECRETARY OF WAR.

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*To the honorable members of the United States Senate and House of Representatives, Washington, D. C.:*

Your petitioner would humbly present that in April, 1865, he was a first lieutenant in Company M, Fiftieth New York Volunteer Engineers, and stationed at City Point, Va. That on the 5th day of April I had permission to visit Capt. J. H. Woodward, captain and commissary of subsistence, in the vicinity of City Point, then in charge of the general cattle herd of the Army of the Potomac. That while at dinner word was brought from City Point that "Richmond was ours," and on the spur of the moment I accepted the invitation of Captain Woodward to ride up to the city, to return the same evening. With an escort of ten men we arrived in the city of Richmond about 6 p. m., and when, about 8 p. m., I urged Lieutenant Fuller and Captain Woodward to return with me to City Point, they refused, Captain Woodward using the escort of 10 men to assist in protecting property. I was forced to remain until the next day or ride in the night a distance of 20 miles alone through a country filled with bushwhackers. I chose to remain until the following day. For this I was tried by a field court-martial and dismissed the service, with loss of all pay and allowances. When my trial took place we were at Burkesville Junction, and as I could not learn of the whereabouts of Captain Woodward and Lieutenant Fuller, I consulted with Lieut. E. Barton Hough, judge-advocate of the court, who advised me, under the circumstances, to plead guilty and throw myself on the mercy of the court. I did so, and received the mercy extended by the wolf to the lamb. After my dismissal, Hon. A. S. Diven, of Elmira, N. Y., called upon the honorable Secretary of War, E. M. Stanton, laid the case before him, and he immediately wrote an order *revoking* the sentence of the court, meaning to restore me to my rank and pay; but when the order from the War Department reached me, I was required to be recommissioned and mustered out with my company. *I was remustered and mustered out with my company, but lost my pay and allowances* from February 28, 1865, to June 14, 1865, with three months' pay proper given to all officers at their muster out of service, in all amounting to about $625. It was the intention of Secretary Stanton to restore me to my company by annulling the proceedings in the case. In 1867–'68, Hon. Hamilton Ward, M. C., Twenty-ninth district of New York, tried to get my claim before President Johnson; but, I think on account of the impeachment trial, failed to accomplish anything; and since then I have not been able to visit Washington to try and get justice done me.

It may not be improper for me to say that I enlisted the Tuesday night following

the firing on Fort Sumter, April 14, 1881, was No. 3 of the men who enlisted in the city of Elmira. I am the only survivor of *four* out of *five* brothers who entered the Army. One died on Hatteras Island, one was killed at the battle of South Mountain, Maryland, and a third died within a year of his return home. I lost my health in the service, am a pensioner, and so badly disabled as to be only able to perform clerical duties, and with no means of support except a small salary. My only offense consisted in being *compelled* to remain over night away from my command, in the city which I had spent nearly *four* years, the best of my life in trying to reach. If there had been any disgraceful act on my part and the sentence just, I should have accepted the punishment as deserved, but as I was more sinned against than *sinned* and the punishment the result of bad advice from one whom I *thought* my friend, but who proved my *enemy*, it will be only an act of justice long deferred to restore to me that which is mine rightfully, and which I earned while sacrificing health and almost life in defense of my country and my country's flag.

I would therefore pray your honorable body to restore to me the pay and allowances withheld from me by sentence of court-martial. Your attention is invited to the accompanying statement of the Hon. J. H. Woodward, of Portland, Oreg, late captain and commissary of subsistence on the staff of General George G. Meade.

Very respectfully, your obedient servant,

GEO. T. DUDLEY,
*Late First Leiutenant, Fiftieth N. Y. V. Engineers, Co. M.*

An investigation of the papers in connection with this case led the committee to believe that the statement made by Lieutenant Dudley as to his absence without leave, for which he was tried and dismissed the service, is a correct and true one, and the Secretary of War, recognizing this to be the fact, would have reinstated him in the service if he had possessed the power to revoke, annul, or set aside the action of the court, after having been appointed by a competent authority. The committee recommend the passage of the bill with the following amendment:

Strike out all after the enacting clause and insert the following:

"That the said George T. Dudley shall be entitled to, and receive, the pay and allowances of his rank which were due him at the date of his dismissal from the service, and that the Treasurer of the United States be, and is hereby, authorized to pay the said George T. Dudley, from any moneys in the Treasury of the United States not otherwise appropriated, the amount found to be due him at that time."

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1241.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 12, 1885.—Ordered to be printed.

Mr. SEWELL, from the Committee on Military Affairs, submitted the following

# REPORT:

[To accompany bill S. 2503.]

*The Committee on Military Affairs, to whom was referred the bill (S. 2503) for the relief of Charles E. Maris, have considered the same, and respectfully report:*

The committee present and make a part of their report the following letter from the Adjutant-General of the Army, a statement of the soldier, accompanied by one from his father, George Maris:

ADJUTANT-GENERAL'S OFFICE, WAR DEPARTMENT,
*Washington, April 7*, 1884

SIR: I have the honor to return herewith letter of Charles E. Maris, formerly a member of Company L, Eleventh Indiana Cavalry, an applicant for relief, so as to entitle him to bounty, referred by you on the 29th ultimo, with request for military history, &c., and in reply to inform you that the records of this office show this man enlisted January 15, 1864, stating his age as nineteen years; and that he was discharged by Special Order No. 55, Adjutant-General's Office, dated February 3, 1865, date of actual discharge not shown by the records.

The discharge of this man was ordered upon the application of his parents on the ground of his minority, and under paragraph 1371, Army Regulations of 1863, which provides that "every enlisted man discharged *as a minor* * * * or for other cause involving fraud on his part in the enlistment, *shall forfeit all pay and allowances, including travel allowances, due at the time of discharge*, and shall not receive final statements."

The bounty (an allowance) in this case having been forfeited by operation of law, this office can make no suggestion as to proper legislation with a view to relief requested by the applicant.

I am, sir, very respectfully, your obedient servant,

R. C. DRUM,
*Adjutant-General.*

Hon. P. B. PLUMB,
*United States Senate.*

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*Statement of Charles E. Maris, Company L, Eleventh Indiana Cavalry (One hundred and twenty-sixth Regiment.)*

On or about the 12th day of December, 1863, I enlisted in Company E of the Eleventh Indiana Cavalry (One hundred and twenty-sixth Regiment), at Camp Stillwell, Kokomo, Ind. After remaining with said company until about the 15th of January, 1864, I was transferred (with six or seven others) to Company L of same regiment. At the time of my examination all that was said to me by the examining surgeon was, "You will do." I am sure that I never gave my age at eighteen years, and if it is so recorded in the War Department, it is an error. I was quite large and robust for my age at that time, and probably had the appearance of being three or four years older than I actually was.

I remained with said company and regiment, doing all the duty that was required of me, until about the last of April, 1864, I took sick; but the nature of my sickness was not known to the surgeons for about three weeks, during which time I was allowed to lie in my tent, and suffer all the exposure incident to camp life, simply because I was under the treatment of unskilled surgeons. Finally my case became to look rather alarming, and the surgeon of another regiment was called, who promptly pronounced my sickness a case of small-pox. I was promptly sent to the small-pox hospital at Nashville, Tenn., where I remained until pronounced able to return to my regiment. I was sent from the small-pox hospital to a cavalry depot known as Camp Webster, near Nashville, Tenn., to be sent to my regiment as soon as practicable. On leaving the small-pox hospital I was not furnished with a blanket, overcoat, or anything to protect me of a night. I remained in the barracks some two or three weeks, but as my physical condition was not very rugged when I left the small-pox hospital, I soon succumbed to a low grade of fever. I was called into the hospital at said camp, where I lay sick for a month or more, during which time my sickness become of such a serious nature that the surgeon in charge wrote to my father, telling him of my condition, and that if he wanted to see me alive he had better come soon. Father immediately came down to see me, but by the time he got there there was some improvement in my condition. The surgeon gave it as his opinion that I would never be of any more account to the service, and advised father to take some steps to get me discharged, but that he (the surgeon) could neither give me a discharge or a furlough, as I had no descriptive list. My father returned home, and learned that Congress had passed an act to the effect that parents could take minors out of the service by refunding all the money drawn from the Government. My father was under the impression that I would be of no more use to the Government, and to all appearances would be the means of saving my life. So he refunded all the money that I had drawn, with the understanding that I should be promptly discharged.

At the time of the el·ction for President in the fall of 1864 the surgeon told me that as he was furloughing quite a large number to go home to vote, that I could have a fifteen days' furlough if I desired it. I accepted the furlough for fifteen days, but about the day before I started for home, I took a violent attack of the dysentery, which made it very hard for me to get home. For three or four weeks after my arrival at home I was confined to my bed. I got an extension of my furlough for thirty days longer. At the end of the forty-five days that I was at home I was feeling much better. I started back to my command, which I found at Nashville, where I rejoined it, going through with the regiment to Eastport, Miss., doing all that was required of me until on or about the 15th of March, 1865, I was discharged, not far from seven months after my father had refunded the money that I had drawn from the Government.

I arrived at home either on the 21st or 22d of March, 1865. I was on the road home about three days, so that my actual discharge was not earlier than the 15th of March, 1865. I further say, that it is my candid opinion that my father would never have taken me out of the Army only for the reasons herein named, and that if I had have been discharged within a reasonable time after the money was refunded by my father this demand would never have been made.

CHARLES E. MARIS.

I hereby certify that on this 2d day of December, 1884, came Charles E. Maris, whom I know to be a man of good reputation for truth and veracity, and before me subscribed, and by me was affirmed, to the foregoing statement.

[SEAL.] A. W. LORD,
*Notary Public.*

Certificate on file.

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STATE OF INDIANA,
*Howard County, ss:*

In the matter of the claim of Charles E. Maris, who was a member of Company L, One hundred and twenty-sixth Regiment Indiana Volunteers.

Comes now George Mais, who, after being duly affirmed according to law, deposeth and saith: I am the father of the said Charles E. Mais; that about August, 1864, I received a letter from the surgeon of the Camp Webster Hospital at Nashville, Tenn., stating that said Charles E. Maris was very sick and asking affiant to come at once. Affiant went to Nashville in response to this letter and found said Charles E. Maris suffering from a fever which had reduced him to a very emaciated condition. Affiant further states that in a conversation the surgeon of the hospital stated as his opinion that claimant would never be able for service in the Army and that it would be best to secure his discharge. Affiant learned after his return home that claimant had contracted camp diarrhea and also that it would be necessary in order to secure

claimant's discharge to return all bounty and wages claimant had received from the Government, claimant being then only about 16 years of age. Affiant further states that through his attorney, Nelson Purdum, of Kokomo, Indiana, he paid in full to the proper authorities all aforesaid bounty and wages which said claimant had received from the Government. Affiant says he did this with the assurance that claimant should be discharged immediately from the service. Affiant states that claimant was unable to get his discharge until about March of the following year; but about Dec. 1st, 1864, he came home on a furlough and remained home about two months, during which time he was a constant sufferer from camp diarrhea, with which disease he was afflicted for many years after.

GEO. MARIS.

On this the 20th day of November, 1884, personally came George Maris, whom I certify is a man of good reputation for truth and veracity, and before me subscribed, and by me was affirmed, to the foregoing statement.

[SEAL.] BENJAMIN B. RICHARDS,
*Notary Public.*

Paragraph 71 of the Army Regulations for 1863, under which a large number of minors were discharged, governs all cases of this nature, as stated by the Adjutant-General.

To make an exception in this case would be simply to open up a question of magnitude, and under which a large number of claims would be presented. Your committee do not think this would be just to the Government, and therefore report the bill adversely.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1242.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 12, 1885.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill S. 1370.]

*The Committee on Claims, to whom was referred the bill (S. 1370) for the relief of Washington Ford, have considered the same, and report as follows:*

The claimant was the lessee of certain plantations in Adams County, Mississippi, under contract with the Government, by which he bound himself to employ and support a certain number of freedmen in working such plantations. The contract further provided that he should pay a certain tax on all cotton raised by him on such plantations, "for the support of helpless freed persons," and that "the stock, implements, and supplies required for carrying on said plantation shall be permitted [admitted ?] by the proper surveyor of customs, free from payment of all taxes."

In December, 1864, Ford applied for and received a permit to ship forty-nine packages, containing cotton, from Natchez to New Orleans. The cotton was shipped, and arrived at New Orleans January 6, 1865, consigned to H. S. Buckner, a commission merchant. Buckner applied to the Treasury agent at New Orleans for the usual permission to remove the cotton from the levee, which was refused, the agent saying that he believed much of the cotton arriving at New Orleans as lessee's cotton was not so in fact, and that he must investigate the matter. Accordingly the cotton was withheld from the consignee for some three weeks, when it was delivered to him on the payment of certain internal-revenue, excise and hospital taxes.

The claimant demands payment for the depreciation in the market value of cotton during the three weeks during which his cotton was withheld from sale, and for a refund of the taxes paid, from which he claims the cotton was exempt under his lease.

The evidence is unsatisfactory; but if the foregoing facts be true the claim has no merit. No fraud or malice on the part of the Government officer is alleged. It does not appear that the agent acted otherwise than as a cautious and faithful officer, anxious to protect the interests of the Government. The time occupied by him in the investigation which he made was not so long as to create a presumption of neglect on his part, and no such neglect is alleged by claimant. The claimaint could not expect that the fact that he had leased a plantation from the Government would guarantee him from the losses incident to the various delays and consequent losses which always arise from war.

The delay was short, was presumably occasioned by good causes, and was the necessary result of the existence of hostilities.

Mr. Ford would not have sued the Government for unlawful imprisonment if he had been arrested upon good grounds of suspicion for treason. He has no more right to claim damages from the Government because his cotton was detained for (presumably) good cause.

As to the refund of taxes claimed, his contract did not exempt his cotton from them. The tax of 1 per cent. for relief of destitute freedmen was not exclusive of all other taxes. Nothing of the kind is intimated in the contract. It was an additional tax which constituted in part the consideration given for the lease of the plantations. His implements and supplies used on the plantation were exempted from taxation, and nothing more. Had the taxes been illegal he could have applied to the Treasury Department for relief; but he never did. A letter, purporting to be a copy of one addressed by the claimant to the Secretary of the Treasury on July 27, 1865, is before your committee; but it was never received at the Department, and no record exists of any application for relief from the taxes paid. There is no evidence before your committee to show that the claimant's cotton was any more exempt from taxation than was that of other persons, nor that the tax imposed was illegal or excessive.

The Government could not—no Government can—insure citizens, however loyal, who either elect to do business in a section where hostilities are going on or have the misfortune to reside there, from the losses consequent to warfare. War is like—if, indeed, it is not—an act of God, from which no Government can protect its citizens. In times of active warfare the laws are silent, and every one in the vicinity of operations is relegated to his primal right—to have and own what he can defend and keep. The rigor of this rule may be much softened by humane Governments and considerate officers, as we believe it was in the war of the rebellion, but the rule cannot be impeached.

We report adversely, and recommend that the bill be indefinitely postponed.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1243.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 12, 1885.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

# REPORT:

[To accompany bill S. 632.]

*The Committee on Claims, to whom was referred the bill (S. 632) entitled "A bill for the relief of the heirs of Manning R. Ariail and Sarah Fish, deceased," have examined the same, and report thereon as follows:*

Your committee referred the bill to the Secretary of the Treasury, and received from the Secretary his annexed letter dated June 4, 1884, and annexed copy of letter from the clerk of the district court of the United States for the southern district of Illinois:

TREASURY DEPARTMENT,
*June* 4, 1884.

SIR: In reply to the request of the Senate Committee on Claims, of April 18, to transmit for the use of the committee, any papers (or copies of them) on file in this Department relating to the subject-matter of the bill (S. 632) for the relief of the heirs of Manning R. Ariail and Sarah Fish, deceased, I have the honor to inclose herewith copy of a letter from the clerk of the district court United States for southern district of Illinois, also copy of letter from the assistant treasurer United States at Saint Louis, Mo., and also certified copies of paid and canceled checks received from said assistant treasurer, showing payment in full of the judgment in favor of said M. R. Ariail and his representatives, in the matter of the 295 bales of cotton referred to in the said bill.

Very respectfully,

H. F. FRENCH,
*Acting Secretary.*

Hon. ANGUS CAMERON,
*Chairman Committee on Claims,*
*United States Senate.*

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OFFICE OF CLERK DISTRICT COURT UNITED STATES,
SOUTHERN DISTRICT OF ILLINOIS,
*Springfield, May* 19, 1884.

SIR: Replying to your communication of the 14th instant, calling for a certified copy of the receipt, or of that part of the record showing payment to M. R. Ariail (or his representative) of proceeds of 295 bales of cotton, seized by the Red River expedition under command of Rear-Admiral Porter, I have to inform you that in consequence of the failure of the former clerk of this court to properly record the proceedings thereof, I am unable to furnish you the information called for. From a book which seems to contain a memorandum of all checks drawn in cotton cases (as well as other cases) I find that on the 20th of June, 1868, a check was drawn in case No. 558, The United States *v.* 650 bales of cotton; 788 bales, 52 sacks of cotton; 409 bales, 139 sacks of cotton, and 1,000 bales of cotton, upon the assistant treasurer of the United States, at Saint Louis, in favor of E. B. Herndon as proctor for Sarah Ariail, for

$5,585.38 "on account amount decreed to Sarah Ariail, ex., claimant of 295 bales of cotton."

On the same day (June 20, 1868) three other checks were drawn, in the same case, upon the same party, one for the sum of $5,585.38, in favor of J. C. Crawley, proctor for Sarah Ariail, executrix, "on account amount decreed to Sarah Ariail, ex., claimant of 295 bales of cotton," one for $12,634.22 in favor of W. W. Withenbury, attorney in fact for Sarah Ariail, ex., on account amount decreed to Sarah Ariail, ex., claimant of 295 bales of cotton, and one for $37,902.67, in favor of Sarah Ariail, executrix of M. R. Ariail, deceased, "on account amount decreed to Sarah Ariail, ex., claimant of 295 bales of cotton."

On the 9th of July, 1872, a check was drawn in case No. 497, The United States v. 2,129 bales of cotton, &c., 650 bales of cotton, &c., upon the assistant treasurer of the United States at Saint Louis, for the sum of $16,814.36, in favor of R. M. Corwine, proctor for Sarah Ariail, executrix of M. R. Ariail, deceased, being amount decreed to be paid upon the claim of M. R. Ariail for 295 bales of cotton.

The above described checks may be with the files in the office of the assistant treasurer of the United States at Saint Louis.

I am unable to find them here.

Respectfully,

M. B. CONVERSE,
*Clerk.*

Hon. CHARLES J. FOLGER,
*Secretary of the Treasury, Washington, D. C.*

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OFFICE OF ASSISTANT TREASURER UNITED STATES,
*Saint Louis, Mo., May 27,* 1884.

SIR: I have the honor to hand you herewith certified copies of certain paid and canceled checks, on file in this office, together with traced copies of the indorsements thereon, as requested in your letter of the 23d instant, "E. B. D."

Very respectfully,

A. G. EDWARDS,
*Assistant Treasurer United States.*

Hon. SECRETARY OF THE TREASURY,
*Washington, D. C.*

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[Check No. 794. Cause No. 558.]

OFFICE OF ASSISTANT TREASURER UNITED STATES,
*Saint Louis, Mo.,* ——— —, 188-.

In the district court of the United States for the southern district of Illinois.

*The United States* v. 650 *bales of cotton, &c.,* 788 *bales and* 52 *sacks of cotton,* 409 *bales and* 139 *sacks of cotton, and* 1,000 *bales of cotton. In prize.*

SPRINGFIELD, ILL., *June* 20, 1868.

*To the Assistant Treasurer of the United States, Saint Louis, Mo.:*

Pay to the order of J. C. Crawley, proctor of Sarah Airail, executrix, $5,585.38, out of the money deposited with you to the credit of the court in the above-entitled cause, being on account of the amount decreed by the court to be paid to said Sarah Airail, executrix of M. R. Airail, deceased, claimant of 295 bales of cotton.

$5,585.38.

S. H. TREAT, *Judge.*

Countersigned and entered.

GEO. P. BOWEN, *Clerk.*

Paid June 22, 1868.

I certify that the above is a correct copy of paid and canceled check on file in this office.

A. G. EDWARDS,
*Assistant Treasurer United States.*

(Indorsed as follows:) J. C. Crawley, proctor for Sarah Airail, executrix, &c.

[Check No. 793. Cause No. 558.]

OFFICE OF ASSISTANT TREASURER UNITED STATES,
*Saint Louis, Mo.*, ——— —, 188-.

In the district court of the United States for the southern district of Illinois.

*The United States* v. 650 *bales of cotton, &c.*, 788 *bales and* 52 *sacks of cotton*, 409 *bales* 138 *sacks of cotton, and* 1,000 *bales of cotton. In prize.*

SPRINGFIELD, ILL., *June* 20, 1868.

*To the Assistant Treasurer of the United States, Saint Louis, Mo.:*

Pay to the order of E. B. Herndon, proctor for Sarah Ariail, executrix, $5,585.38 out of the money deposited with you to the credit of the court in the above entitled cause, being on account of the amount decreed by the court to be paid Sarah Ariail, executrix of M. R. Ariail, deceased, claimant of 297 bales of cotton in said cause.

$5,585.38.

S. H. TREAT, *Judge.*

Countersigned and entered.

GEO. P. BOWEN, *Clerk.*

Paid June 25, 1868.

I certify that the above is a correct copy of paid and canceled check on file in this office.

A. G. EDWARRS,
*Assistant Treasurer United States.*

(Indorsed as follows:) E. B. Herndon, proctor for Sarah Ariail, executrix. Pay James E. Yeatman, esq., cashier, or order. B. H. Ferguson, secretary; James E. Yeatman, cashier.

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[Check No. 795. Cause No. 558.]

OFFICE OF ASSISTANT TREASURER UNITED STATES,
*Saint Louis, Mo.*, ———, 188-.

In the District Court of the United States for the Southern District of Illinois.

*The United States* v. 650 *bales of cotton, &c.*, 788 *bales* 52 *sacks of cotton*, 409 *bales* 139 *sacks of cotton, and* 1,000 *bales of cotton. In prize.*

SPRINGFIELD, ILL., *June* 20, 1868.

*To the Assistant Treasurer of the United States, Saint Louis, Mo.:*

Pay to the order of W. W. Withenbury, attorney in fact for Sarah Airail, ex., $12,634.22 out of the money deposited with you to the credit of the court in the above entitled cause, being on account of the amount decreed by the court to be paid to said Sarah Airail, executrix of M. R. Airail, deceased, claimant of 295 bales of said cotton.

$12,634.22.

S. H. TREAT, *Judge.*

Countersigned and entered.

GEO. P. BOWEN, *Clerk.*

I certify that the above is a correct copy of paid and canceled check on file in this office.

A. G. EDWARDS,
*Assistant Treasurer United States.*

Paid June 25, 1868.

(Indorsed as follows:) W. W. Withenbury, attorney in fact for Sarah Ariail, executrix of M. R. Ariail, deceased. Pay L. A. Bemish & Co., or order. O. E. Brunnaupt, L. A. Bemish, & Co.

Pay to the order of Sarah Airail, executrix of M. R. Airail, deceased, $37,902.67 o of the money deposited with you to the credit of the court in the above entitled cau being on account of the amount decreed by the court to be paid to said Sarah Air executrix of M. R. Airail, deceased, claimant of 295 bales of cotton.

$37,902.67.

S. H. TREAT, *Judge*

Countersigned and entered.

GEO. P. BOWEN, *Clerk*

Paid June 26, 1868.

I certify that the above is a correct copy of paid and canceled check on file in t office.

A. G. EDWARDS,
*Assistant Treasurer United State*

(Endorsed as follows:) Sarah Ariail, executrix of M. R. Ariail, deceased. Pay E. Yeatman, cash. or order, H. Punkey, cashier. James E. Yeatman, cashier.

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[Check No. 1161. Cause No. 497.]

OFFICE OF ASSISTANT TREASURER UNITED STATES,
*Saint Louis, Mo.*, ——— —, 188

In the District Court of the United States for the southern district of Illinois.

*The United States* v. 2,129 *bales of cotton, &c.*, 650 *bales of cotton, &c.*, 788 *bales*, 52 *s of cotton*, 409 *bales*, 139 *sacks of cotton, and* 1,000 *bales of cotton.*

SPRINGFIELD, ILL., *July* 9, 187

*Assistant Treasurer United States, Saint Louis, Mo.*:

Pay to the order of R. M, Corwine, proctor for Sarah Airail, executrix of M. Airaiel, deceased, $16,814.36, out of the money deposited with you to the credit of court in the above entitled cause, being in full for the amount decreed by the co to be paid upon the claim of said M. R, Airail for 295 bales of cotton in said caus

$16,814.36.

S. H. TREAT, *Judge*

Countersigned.

It appears that these identical 295 bales of cotton were condemned and sold by proceeding in prize in the United States district court for the southern district of Illinois, and that said Manning R. Airail, or his legal representatives, were paid the proceeds of such sale. The owners of the cotton having already been paid for the same, have no further claim against the Government.

We therefore recommend that the claim be not allowed, and that the bill be indefinitely postponed.

[ CONGRESS, } SENATE. { REPORT
d Session. } { No. 1244.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 12, 1885.—Ordered to be printed.

MAXEY, from the Committee on Military Affairs, submitted the following

# REPORT:

[To accompany bill H. R. 1327.]

*Committee on Military Affairs, to which was referred the bill (H. R. 27) for the relief of J. H. Hammond, respectfully submits the following report:*

ie report of the House of Representatives accompanying the bill ents the case fairly, and is adopted as to the facts established, as ws:

at this claim is for the value of the barge William T. Anderson, alleged to have lost while in the service of the United States during the late war. Claim stated ,000.

appears from the proof submitted that the barge when lost was in the military ce of the United States, under a charter-party which contained a stipulation as ws:

'he war risk will be borne by the United States. The marine risk by the owners under orders south of Cape Henry (the southern cape of Chesapeake Bay), after h the marine risk will be borne by the United States until they reach that lation their return."

e evidence shows that the loss of the barge was near the mouth of the Potomac r in the Chesapeake Bay, north of Cape Henry, and was occasioned by a marine

e claimant submits statements of Hon. John Tucker and Capt. H. C. Hodges, the er at one time Assistant Secretary of War, and the latter the officer who executed harter under which the barge entered the military service, to the effect that the rstanding was that the Government would assume both the war and marine risks vessels which should be chartered for the McClellan expedition; and that Cap- Hodges, while intending so to stipulate on behalf of the Government, neglected ise from the form of charter used the words which bound the owners to assume iarine risk until under orders south of Cape Henry; and that consequently the er does not express the true intent of the contracting parties.

is claim was filed in the Treasury Department on the 3d day of April, 1864, and e 16th day of September, 1864, disallowed for the following reasons given by 'hird Auditor, to wit:

'he accounting officers have no equity jurisdiction, and consequently no power to ct mistakes in or alter the terms of charters, and none to receive evidence which adicts the provisions thereof."

clearly appears by the evidence of the Government's own officers how it happened the printed words in the blank charter were not struck out, as the Government ned both the war and marine risks in *all* cases of vessels chartered for the McClel- xpedition.

e evidence filed in this case (all original) from the files of the Department shows value of the barge at the sum claimed, viz, $2,000, and was given at the time the matter was fresh in the minds of all the parties.

The committee admits the correctness of the Third Auditor's position June 30, 1881, viz:

> That the accounting officers have no equity jurisdiction, and consequently no power to correct mistakes in or alter the terms of charters, and none to receive evidence which contradicts the provisions thereof.

At last the question before the committee is, What was the contract between the Government, through its agent, Hodges, and the claimant, Hammond? Did the Government in fact assume without qualification both war and marine risks, and did Hammond so understand it, and, thus understanding, contract? Was Hammond's vessel lost at sea, or captured, and if so what was the extent of that loss?

If the evidence of Tucker, at the time Assistant Secretary of War, be true; if the testimony of Hodges be true; and if the affidavit of Hammond be true, then undoubtedly the real contract (by mistake) does not appear. That Congress can correct the mistake, and reform the contract according to the terms thereof, the committee does not doubt; and that by the contract actually entered into the Government assumed war and marine risks without qualification is satisfactorily established. The loss of the vessel is established, and the value thereof as claimed, to wit, $2,000.

These being all the pertinent facts, and the committee being satisfied with the evidence, reports the bill without amendment, and recommends its passage.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1245.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 12, 1885.—Ordered to be printed.

Mr. MILLER, of California, from the Committee on Foreign Relations, submitted the following

# REPORT:

[To accompany amendment reported to the bill (H. R. ——) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1886, and for other purposes.]

The Committee on Foreign Relations, to whom was referred the "Message from the President of the United States, transmitting communication from the Secretary of the Navy relative to the services extended in Russia to the survivors of the Steamer Jeannette Expedition," having considered the same, beg leave to report an "Amendment intended to be proposed to the sundry civil appropriations bill" to enable the President to carry out the recommendations made in the said message.

The committee are of the opinion that the amount of the expenditures involved will not exceed $15,000.

The message of the President referred to, and the accompanying letters from the Secretary of the Navy, are submitted as explanatory hereof.

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[Senate Ex. Doc. No. 48, Forty-eighth Congress, second session.]

*Message from the President of the United States, transmitting communication from the Secretary of the Navy relative to the services extended in Russia to the survivors of the Steamer Jeannette Expedition.*

EXECUTIVE MANSION,
*January* 27, 1885.

*To the Senate and House of Representatives:*

I have the honor to transmit communications from the Secretary of the Navy recommending certain action by the Government in recognition of the services, official and personal, extended in Russia to the survivors of the Arctic exploring steamer Jeannette and to the search parties subsequently sent to Siberia.

The authority of Congress is requested for extending the specific rewards mentioned in the paper accompanying one of the communications of the Secretary. The suggestion concerning the thanks of Congress is also submitted for consideration.

CHESTER A. ARTHUR.

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NAVY DEPARTMENT,
*Washington, January* 10, 1885.

SIR: In view of the great services and the sympathy extended in Russia to the survivors of the Arctic exploring steamer Jeannette, and to the search parties subsequently sent to Siberia, it seems fitting that the Congress of the United States should tender to the Government and people of Russia an official expression of its thanks; and, further, that those official and inhabitants of Siberia who directly and materially aided the surviving officers and men of the Jeannette and the officers of the search parties *should receive such* additional evidences of the appreciation of this *Government as may be appropriate.*

## SPECIAL REWARDS.

### OFFICIALS.

Maj. Gen. George Tchernaieff, governor of Yakutsk, Russian Siberia: Sword, and
from the President of the United States.
Ispravnick Kasharoffski, } Gold watch and silver medal.
Ispravnick Ipatieff, }
Cossack-Subaltern Baieshoff: Silver medal, sporting rifle, and a gratuity of $2
Cossack-Subaltern Kalinkin: Silver medal and a gratuity of $200.
Cossack Ivan Bozhedomoff: A gratuity of $100.

### INHABITANTS OF IRKUTSK.

Mr. Stepanoff: Gold watch.
Mr. A. A. Thornan: Gratuity of $300.
Mr. Charles Lee: Gold watch.
Constantin Bobokoff: Silver medal.
Jaokin Grombeck: Silver medal.

### NATIVES OF THE DISTRICT OF YAKUTSK.

Vassili Bobrowsky: Large silver medal and $500.
Ivan Androsoff: Medium silver medal.
Constantin Mohoploff: Medium silver medal.
Peter Arrara: Medium silver medal.
Slipsof Verbenie: Medium silver medal.
Alexei Atkasoff: Medium silver medal.
Nicolai Diakonoff: Medium silver medal.
Michael: Small silver medal.
Abanashi Bobrowsky: Small silver medal.
Maxim Stepenoff; Small silver medal.
Toros Savin: Small silver medal.
——— Korani: Small silver medal.

And to each of these 1 small-bore muzzle-loading sporting rifle, 500 rounds o
munition, 1,000 percussion caps, powder-flask, bullet-pouch, bullet-mold, cl
nipper, fine ax, waist-belt, sheath-knife, flint and steel, 2 pairs scissors, 100 gl
needles, 5 pounds of white and 5 pounds black linen thread, 20 yards navy flann

NAVY DEPARTMENT,
*Washington, January* 10, 1885.

SIR: As it seems fitting that the important and valuable services, official and personal, extended in Russia to the survivors of the Arctic exploring steamer Jeannette and to the search parties subsequently sent to Siberia should receive appropriate official recognition, I have the honor to recommend that your thanks be tendered the following-named persons, all of whom, as specifically set forth in the reports made to this Department, materially aided the surviving officers and men of the Jeannette and the officers of the search parties:

Governor-General, Lieutenant-General Anuchin (Irkutsk).
Governor-General, Lieutenant-General Kalpokoffsky (Omsk).
Governor, Major-General Tchernaieff (Yakutsk).
Governor, Major-General Nassovich (Irkutsk).
Governor, Conseiller d'Etat Mertsalof (Tomsk).
Governor of Petropaulovsk.
General Peter Civer (Irkutsk).
Consul of France M. Edmund de Lagreué (Moscow).
Medical Director R. Kapello (Yakutsk).
Count Emil Ahlfeldt Laurwigen (St. Petersburgh).

As valuable services were also extended by Dr. R. Byelie and Mr. E. Leon, political exiles in Siberia, to the officers and men referred to, I shall, with your approval, tender them the thanks of this Department.

I have the honor to be, sir, very respectfully,

WM. E. CHANDLER,
*Secretary of the Navy.*

The PRESIDENT.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1246.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 12, 1885.—Ordered to be printed.

Mr. HAWLEY, from the Committee on Military Affairs, submitted the following

# REPORT:

[To accompany bill H. R. 78.]

*The Committee on Military Affairs, to whom was referred the bill (H. R. 78) to provide for the retirement of Col. Henry J. Hunt, as a major-general of the United States Army, having considered the same, make the following report:*

The committee find the facts to be as stated in House Report No. 122, Forty-eighth Congress, first session, which said report is hereto annexed and made part of this report, and is as follows:

[House Report No. 122, Forty-eighth Congress, first session.]

*The Committee on Military Affairs, to whom was referred the bill (H. R. 78) to provide for the retirement of Col. Henry J. Hunt, as a major-general of the United States Army, beg leave to report:*

Colonel Hunt's active service with troops, as shown by the official record hereto appended (Appendix A), has extended over a period of more than forty-four years. He has held the rank of major-general by two brevets, one in the volunteer and one in the regular service. He performed the duties of major-general for nearly eight years, of which four were during the late war. For three years he was chief of artillery of the Army of the Potomac, and successfully conducted this important and difficult service. It never has been questioned that his conduct met the approbation of the successive commanders of that Army and of General Grant. His brevet of major-general of volunteers "for gallantry and distinguished conduct at the battle of Gettysburg, and for faithful and highly meritorious services from the Rapidan to Petersburg," antedated all brevets of the same grade conferred at the close of that campaign, and Major-General Meade subsequently recommended his promotion to a full major-general. Although his command was equal in extent to that of an army corps, he is, so far as known, the only permanent corps commander who did not receive the rank of full major-general. This rose from the fact that in his arm of the service (the artillery) there was no such promotion as in the other arms.

The Adjutant-General, in the first year of the war, held that a battery was a *company*, and as the law authorized not more than one brigadier-general for every four regiments* (40 companies), the largest army could have no more than one brigadier of artillery.

On the other hand, the General-in-Chief, in the second year of the war, held that each battery was a *regiment* commanded by a captain, and that consequently field officers were unnecessary, and orders were issued to exclude them from the service. (General Orders No. 126, 1862.)

For the remainder of the war both theories were acted on. The artillery was deprived of generals, because a battery was a company, and of field officers, because a battery was a regiment.

The result was the immediate stoppage of promotion in the artillery. Consequently, as soon as an artillery officer developed high ability he was offered the promotion in other arms that was impossible in his own. In this way the other surviving com-

manders of batteries in the Mexican war, George H. Thomas, John F. Reynolds, and T. W. Sherman, were in 1861 appointed brigadier-generals of infantry, and rose to great distinction. General Hunt was repeatedly offered such commands; but because his skill and experience as an artillerist were essential to the success of his arm, the Government would not permit him to leave it. Thus, his very ability prevented his advancement by confining him to the artillery, where there was little or no promotion.

While receiving the pay of a colonel, or at most of a brigadier-general, Colonel Hunt was subjected to all the *expenses* of a major-general commanding a corps. His command being scattered over a great extent of ground, many of his officers, riding long distances to confer with him, had to be kept over night and entertained. Moreover, many foreign officers, and other guests at the headquarters of the Army, were billeted on him. As no extra allowance was given him for these unusual expenses, he was obliged to pay them himself, and in this way expended more than $2,000 a year beyond his pay. In other words, he served his country in a position of the greatest responsibility and peril and paid $2,000 a year for the privilege, so that he had in this way, at the end of the war, exhausted his slender private resources.

As has been said, Colonel Hunt's command was fully equal to that of a corps. At the battle of Gettysburg, for example, his artillery consisted of 65 batteries (364 guns), with over 8,000 men, 7,000 horses, and large trains of ammunition and stores, the whole divided into 14 brigades. At the investment of Petersburg his command was even more extensive, for he there had sole control of the siege operations south of the Appomattox, which embraced the entire Army of the Potomac and one corps of the Army of the James. And it is to be borne in mind that his duties, unlike those of a general of infantry, were double, being, first, those of a commander of troops on the field of battle, and, secondly, those of an administrative officer having charge of ammunition trains and supplies. And yet no major-general of artillery was admissible, although there were issued during the war 156 commissions of major-general.

Had promotion to the highest grades in the Army been by seniority, as it is in the Navy, Colonel Hunt would have been for years a major-general, and, when retired, the senior of that grade.

As a retired officer he is now properly eligible to the rank whose duties he performed during the war, and was performing at the date of his retirement. Precedents for such promotions are numerous. Besides the cases of Colonels Robinson and Sickles, and Lieutenant-Colonel Carroll and Major Ricketts, who were retired as major-generals under the general acts of August 3, 1861, and July 28, 1866, there is the case of Brigadier-General Ord, retired on his brevet rank of major-general by special act, January 28, 1881, and of Col. S. P. Heintzelman as major-general, by joint resolution April 10, 1869; Colonel Crawford, as brigadier-general, by special act March 3, 1875; and Colonel Emory, as brigadier-general, by special act June 26, 1876.

To illustrate the saving by the Government in consequence of restricting the chief of artillery to the grade and the staff of a brigadier-general, instead of those of a major-general commanding a corps, the following tables are given:

| | | |
|---|---|---|
| Pay of a major-general during the war, per annum | $5,368 50 | |
| Staff, five lieutenant-colonels | 11,272 50 | |
| Three aids | 5,445 00 | |
| | | $22,086 00 |
| Average pay of General Hunt as colonel and brigadier-general | 3,453 50 | |
| One inspector-general | 2,254 50 | |
| One assistant adjutant-general | 1,561 50 | |
| Two aids | 2,966 00 | |
| | | 10,235 50 |
| Saving per annum | | 11,850 50 |
| Saving for the four years of war | | 47,403 00 |

The esteem in which Colonel Hunt is held by his companions in arms is shown by the accompanying request in aid of this bill, signed by all the chiefs of the military bureaus of the War Department (Appendix B).

Your committee therefore recommend the passage of the bill.

## APPENDIX A.

HEADQUARTERS OF THE ARMY,
ADJUTANT-GENERAL'S OFFICE,
*Washington, January* 16, 1884.

***Statement of the military service of Henry J. Hunt, of the United States Army, compiled from the records of this office.***

He was graduated at the U. S. Military Academy and appointed second lieutenant 2d Artillery July 1, 1839; promoted first lieutenant June 18, 1846; captain, September 28, 1852; major 5th Artillery, May 14, 1861; lieutenant-colonel 3d Artillery, August 1, 1863; colonel 5th Artillery, April 4, 1869; colonel and additional aide-de-camp, Sept. 28, 1861; and brigadier-general of volunteers, September 15, 1862, "for meritorious services."

He received the brevets of captain U. S. Army August 20, 1847, "for gallant and meritorious conduct in the battles of Contreras and Churubusco; major, U. S. Army, September 13, 1847, "for gallant and meritorious conduct in the battle of Chapultepec"; colonel, U. S. Army, July 3, 1863, "for gallant and meritorious services in the battle of Gettysburg, Pa."; brigadier-general U. S. Army, March 13, 1865, "for gallant and meritorious services during the siege of Petersburg, Va., and in the campaign terminating with the surrender of the insurgent army under General R. E. Lee"; major-general U. S. Army, March 13, 1865, "for gallant and meritorious services in the field during the war"; and major-general of volunteers, July 6, 1864, "for gallant and distinguished conduct in the battle of Gettysburg, and for faithful and highly meritorious services in the campaign from the Rapidan to Petersburg, Va." He served with his company at Detroit, Mich., from Aug. 30, 1839, to Oct. 15, 1839; at Buffalo, N. Y., to Sept. 21, 1840; at Madison Barracks, N. Y., to Aug. 13, 1841; at Fort Adams, R. I., to Aug. 29, 1843; at Fort Hamilton, N. Y., to Oct. 3, 1844, and at Fort Columbus, N. Y., to Aug. 15, 1845; conducting recruits to Oct. 19, 1845; with company at Fort Adams, R. I., to June 1, 1846; with Light Battery en route to, and in, Texas, and in the war with Mexico (commanding battery from Nov. 18, 1847, to June 24, 1849), to July 14, 1848; en route to, and at, Fort Columbus, N. Y., to Oct. 11, 1848; and at Fort McHenry, Md., to July 1, 1849; on leave to Dec. 15, 1849; with company at Fort Monroe, Va., to Dec. 5, 1852, and at Fort Moultrie, S. C., to June 15, 1853; commanding Light Battery at Fort Smith, Ark., to Aug. 16, 1853, and at Fort Washita, Ark., to Nov. 24, 1853; on leave to March 30, 1854; commanding battery at Fort Washita, Ark., to Nov. 14, 1856; member of board revising the system of light artillery tactics to Sept. 30, 1857; commanding battery at Fort Leavenworth, Kansas, to May 28, 1858; in the field on the expedition to Salt Lake, Utah, for the relief of Colonel A. Sidney Johnston, to Aug. 3, 1858, and at Fort Leavenworth, Kans., to Aug. 31, 1858; member of board revising the system of light artillery tactics to March 22, 1860; commanding battery en route to and at Fort Brown, Texas, to Dec. 13, 1860; on leave to Jan'y 2, 1861; commanding troops at Harper's Ferry, Va., to April 2, 1861; commanding battery at Fort Hamilton, N. Y., to April 6, 1861; en route to and at Fort Pickens, Fla., to June 27, 1861; en route to Washington, D. C., and in the field, Virginia, to July 26, 1861; chief of artillery, defenses of Washington south of the Potomac, to September 16, 1861; commanding artillery reserve, Army of the Potomac, at Washington, D. C., to March 10, 1862, and in the field, Virginia (peninsular campaign), to Aug. 21, 1862, being also employed as member of a board to fix number and caliber of guns at permanent fortifications and field batteries, from Nov. 26, 1861, to some time in March, 1862, and president of the board to report upon the various kind of rifled cannon and ammunition therefor, and to examine projectiles to replace those in use in the Army of the Potomac from Nov. 1, 1861, to some time in January, 1862; forwarding batteries from Aquia Creek to General Pope's army in Virginia from Aug. 22, 1862, to some time in Sept., 1862; chief of artillery, Army of the Potomac, from Sept. 5, 1862, to June 27, 1865 (assigned and on duty according to his brevet rank of major-general from Dec. 29, 1864, to April 30, 1866); commanding artillery division, Department of Washington, to some time in Aug., 1865, and the District of the Frontier at Fort Smith, Ark., from Sept. 13, 1865, to March 24, 1866.

He was honorably mustered out as brigadier-general of volunteers April 30, 1866.

He was appointed president of the Permanent Artillery Board, in reference to the interest and efficiency of the artillery arm, in session from April 2, 1866, to Aug. 29, 1866; on permission to delay to January 18, 1867; member of board to determine the caliber and proportion of rifled guns for the armament of fortifications to Feb'y 27, 1867; commanding Fort Independence, Mass., to April 29, 1867; Fort Sullivan, Maine, to Feb'y 5, 1869; Fort Jefferson, Fla., to April 5, 1869; regiment and post of Fort Adams, R. I., from May 20, 1869, to July 28, 1870, being also in command of the Canadian frontier *from Lake Ontario to* Lake Champlain, with headquarters at Ma-

lone, N. Y., during the Fenian disturbances April and May, 1870; commanding the district of North Carolina, July 28 to Sept. 13, 1870, and Fort Adams, R. I., to July 4, 1871; member of board preparing a system of general regulations for the administration of the affairs of the Army to May 23, 1872; commanding post of Fort Adams, R. I., to March 2, 1873; on leave to April 23, 1873; commanding Fort Adams, R. I., to August 24, 1874; on court-martial duty at Fort Sanders, Wyo., to Sept. 26, 1874; commanding Fort Adams, R. I., to November 30, 1875, and at Charleston, S. C., to November 12, 1876; under orders of the Secretary of War to February 21, 1877; commanding post of Charleston, S. C., to April 12, 1877; on leave to June 20, 1877; commanding post of Charleston, S. C., to April 21, 1879, and Atlanta, Ga., to September 19, 1879; on court-martial duty in Kansas to December 3, 1879; commanding post of Atlanta, Ga., to December 21, 1880; on duty in Washington, D. C., to January 6, 1881, and commanding the Department of the South at Newport Barracks, Ky., according to his brevet rank of brigadier-general, to March 3, 1883, and as colonel to September 14, 1883, when he was retired from active service by operation of law under the provisions of section 1 of the act of Congress approved June 30, 1882.

In the war with Mexico he was attached to Duncan's battery, and was engaged in the siege of Vera Cruz, the battles of Cerro Gordo, Churubusco, Molino del Rey, storming of Chapultepec, assault on the Garita San Cosmé, and capture of the city of Mexico. In this campaign he was twice wounded. He commanded his battery at the battle of Bull Run, Va., July 21, 1861; commanded the artillery reserve in the Peninsular campaign of 1862. At the siege of Yorktown, the battles of Gaines's Mill, Garnett's farm, White Oak Swamp, Glendale, Turkey Bend, and Malvern Hill. As chief of artillery he commanded the artillery of the Army of the Potomac in the subsequent campaigns of that army, being engaged in the battles of South Mountain, Antietam, and Fredericksburg, in 1862; Chancellorsville, Gettysburg, Rappahannock Station, in 1863; Wilderness, Spottsylvania Court-House, North Anna, Totopotomoy, Cold Harbor, assaults of Petersburg, June 15–18, 1864; siege of that place and its capture, and was present at the capitulation of the Army of Northern Virginia, at Appomattox, April 9, 1865. All the siege operations at Petersburg were placed under his general direction by the following orders:

[Special Orders No. 43.]

HEADQUARTERS, ARMIES OF THE UNITED STATES,
*City Point, Va., June 27, 1864.*

In all siege operations about Petersburg, south of the Appomattox, Brig. Gen'l H. J. Hunt, chief of artillery of the Army of the Potomac, will have general charge, and be obeyed and respected accordingly. Col. H. L. Abbot, in charge of the siege trains, will report to Gen'l Hunt for orders.

By order of Lieut. Gen'l Grant.

T. S. BOWERS,
*Assistant Adjutant-General.*

One army corps of the Army of the James co-operated with the Army of the Potomac, south of the Appomattox; also the seige trains under Col. Abbot were used for the operations of both armies.

R. C. DRUM,
*Adjutant-General.*

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## APPENDIX B.

WAR DEPARTMENT,
*Washington City, January 15, 1884.*

SIR: I have the honor to transmit to you a testimonial of all the chiefs of the military Bureaus in this Department, showing the high estimation in which they hold the public services of General Henry J. Hunt, in relation to whom a bill has lately been introduced in the House of Representatives.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
*Secretary of War.*

General W. S. ROSECRANS,
*Chairman Committee on Military Affairs, House of Representatives.*

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WASHINGTON, D. C., *January 11, 1884.*

The undersigned desire to express their gratification that a bill has been introduced into the House of Representatives placing Brevet Major-General Henry J. Hunt on

retired list with the rank of major-general. General Hunt was distinguished in Mexican war; and in the late war his reputation as a gallant, efficient, and thorh soldier rose with his services, which were distinguished in the highest degree in ost every battle fought east of the Alleghenies. Forty-four years of such service ıly and justly deserve recognition by Congress.

he undersigned heartily concur in this proposed action by Congress, and strongly ommend that this bill become a law.

S. V. BENÉT,
*Brigadier-General, Chief of Ordnance.*
D. B. SACKET,
*Brigadier and Inspector General, U. S. A.*
WM. B. ROCHESTER,
*Paymaster-General, U. S. A.*
R. MACFEELY,
*Commissary-General of Subsistence, U. S. A.*
S. B. HOLABIRD,
*Quartermaster-General, U. S. A.*
R. MURRAY,
*Surgeon-General, U. S. A.*
H. G. WRIGHT,
*Chief of Engineers, Brigadier and Brevet Major-General.*
W. B. HAZEN,
*Chief Signal Officer.*
D. G. SWAIM,
*Judge-Advocate-General.*
R. C. DRUM,
*Adjutant-General.*

O

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1247.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 2177.]

*The Committee on Pensions, to whom was referred the bill (S. 2177) granting a pension to Henry Radford, have examined the same, and report:*

That the claimant, Henry Radford, has been pensioned by the Department under the general laws at $6 per month from February 12, 1881, since the introduction of the present bill (Pension certificate No. 269,963).

Your committee therefore recommend the indefinite postponement of the bill.

C

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1248.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 4189.]

*The Committee on Pensions, to whom was referred the bill (H. R. 4189) granting a pension to Caroline Van Norton, have examined the same, and report:*

The facts in this case are set forth in the report of the House Committee on Invalid Pensions (Report No. 777), as follows:

The petitioner alleges that her husband, Jacob Van Norton, contracted the disability of which he died while in the service and line of duty, as follows:

About July 4, 1863, he started on a forced march from Frederick, Md., and arrived at South Mountain, where he encamped for the night, sleeping in the wet grass, without fire or shelter, from which he took a severe cold, followed by diarrhea and disease of liver, and was sent to hospital August 25, 1863.

Adjutant-General reports him wounded in action May 10, 1864, and in general hospital. September 17, 1863, admitted to Carver Hospital, convalescent from fever; furloughed October 19, 1863, for 60 days; returned December 18, 1863. Entered Emory General Hospital, Washington, D. C., from the field with gunshot wound of left hand, received at Spottsylvania May 15, 1864, and was transferred May 27, 1864. Entered general hospital, Chester, Pa., May 26, 1864, with gunshot wound left hand, and was furloughed July 22, 1864, and returned to duty January 20, 1865.

Nathan F. Peck, lieutenant, says that he served with the soldier and was sergeant, and called the rolls, and knows that Jacob Van Norton contracted chronic diarrhea and disease of liver about July 4, 1863, at or near South Mountain, Md., while in the line of his duty; that he did not recover while he was in the service; that he has been acquainted with him since his discharge, and that he continues to be affected with chronic diarrhea and in feeble condition, with a countenance indicating disease of liver.

E. H. Elliott, M. D., testifies that he was the family physician of the soldier; that he was a healthy man at the time of enlistment and free from chronic diarrhea or disease of liver; that after his discharge affiant treated him for said diseases, which in the opinion of affiant were contracted while in the Army.

Nathan P. Johnson, M. D., testifies that he has been acquainted with the soldier since the spring of 1869; that he attended him in his last sickness; that he was affected with liver complaint and heart disease; that he died April 14, 1869.

J. H. Helms, examining surgeon, certifies that he examined the soldier July 25, 1868, and reports that he had chronic diarrhœa for nine months while in the service, and has had frequent attacks since, followed by extreme constipation; has a serious liver difficulty beyond any doubt to his mind. His general health is bad, and he is unable to do any labor.

The standing and professional ability of the physicians who testify is shown to be good.

From the evidence presented it is quite apparent that the soldier contracted a disease in the service, which caused his death. The record of service shows that he enlisted October 1, 1862, as a private in Company A, One hundred and fifty-first Regiment New York Volunteers, and was discharged June 26, 1865. His death occurred

April 14, 1869. The widow's application was filed June 16, 1871, and was rejected on the ground that the death was not caused by disease contracted in the service.

As the evidence seems to point to the contrary, and as the widow is needy, your committee believe she should have a pension, and therefore recommend the passage of bill H. R. 4189, which places her on the rolls subject to the limitations of the pension laws.

Some additional evidence was also filed since the close of the last session and since the above report was made.

James H. Harris, a comrade, swears to the perfect soundness of the soldier when they entered the service together in the same company; that the soldier incurred both diarrhœa and heart trouble while in the service, and describes the circumstances.

Theron S. Elton, a neighbor of soldier, swears to his prior soundness; that he was a strong, hearty, healthy, and active man; but saw him the day he returned home, when he complained of chronic diarrhea and of trouble with his heart; that he was thin and weak, and in poor health, and he knows he so continued till his death; able to do but little work on account of this diarrhea and heart trouble.

John M. Harwood, another neighbor, testifies to substantially the same effect; that he was strong and healthy when he enlisted, and that he returned thin, pale, and emaciated, and afflicted with diarrhea and heart trouble, which continued to grow worse until his death, as he believes, from those causes.

Nelson Crow, also a neighbor for fifteen years prior to Van Norton's enlistment, and swears he had no diarrhea or heart disease prior to enlistment, but was so affected after his return, and continuously down to the time of his death. Otherwise his testimony is substantially the same as the other neighbors as to the details.

De Witt C. Leonard, a neighbor four years just prior to soldier's enlistment, testifies at considerable length to substantially the same state of facts.

John D. Van Horn, a neighbor and comrade in the same company, testifies to the sickness of soldier while in the service.

Dr. Johnson again testifies in detail as to the soldier's last sickness and his death, which seem to show clearly the death arose from the diseases incurred in the service.

The claimant also files affidavits corroborative of the above.

In view of this testimony, your committee recommend the passage of the bill.

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48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1249.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 2057.]

*The Committee on Pensions, to whom was referred the bill (S. 2057) granting a pension to Margaret Beymer, have examined the same, and report:*

That the claimant was pensioned in 1882 by authority of a special act of Congress, and has received $17 per month from July 22, 1882, the date of the approval of the act, certificate No. 197,051. The object of the present bill having been accomplished, your committee therefore report back this bill with a recommendation that it be indefinitely postponed.

O

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 4837.]

*Committee on Pensions, to whom was referred the bill (H. R. 4837) 'anting a pension to Charles H. Phillips, have examined the same, and port:*

he facts in this case are stated in the report of the Committee on ılid Pensions (House Report No. 1500) made at the last session, as ıws:

is shown by the papers in the case that the petitioner enlisted in the service of Jnited States in May, 1861, in Company B, Twenty-fifth New York Volunteers, ɔrivate, and that he was discharged on the 10th of July, 1863, on account of a hot wound in the right thigh, received at the battle of Gaines's Mills. He served 'geant, and was duly commissioned as second lieutenant on the 9th of May, 1863. his discharge and partial recovery from his wound, finding that he could not re-, he hired, on the 23d day of December, 1863, as a teamster, and while on duty oodville, Ala., herding mules, was captured by guerrillas, taken to Atlanta, Ga., rom thence to Andersonville prison, where he remained confined for ten months. ɔ at Andersonville the varioloid prevailed; claimant was vaccinated, gangrene , and he came near losing his arm.

ɔ statement of Michael Gaffney, under oath, is substantially as follows:

hat he was captured at Guntown, Miss., June 12, 1864, and arrived at Anderson-prison about the 16th of June, and was a prisoner about five months and twelve and was paroled on or about November 24, 1864; was one of the prisoners com-ıg the ninety-second detachment stationed in the new stockade at Andersonville ı; knew from acquaintance formed in said prison Charles H. Phillips, who repre-d himself as a teamster belonging to the First Division, Fifteenth Army Corps, prisoner with him; remember the 11th July, 1864, when there were hung six men ɔn prisoners) at the south gate, of seeing Phillips personally; remembers seeing at many of our men with their arms in slings after being vaccinated, and knows 'reat many comrades dying from said vaccination; and further that said vaccina-vas ordered and enforced by the rebel authorities, and from all the information ıld learn said vaccine matter was of an impure character. Phillips was one of nion prisoners who suffered from said impure vaccination."

ı following affidavits of physicians will show the present condition of claimant, ing from the vicious vaccination at Andersonville:

ɔnuel E. Stiles, M. D., testifies that he is now, and has been for fourteen years, a cing physician and surgeon, and is a graduate of the Long Island College tal, and that he has personally examined Charles H. Philips, and finds him sustain-e following injuries: First, a cicatrix about 2¼ inches in diameter on the upper ɔf the anterior and inner surface of the right arm, which has caused a partial con-ɔn of the biceps muscle, with resulting partial loss of extension and supination arm. This cicatrix also involves and is adherent to portions of the media and erves, producing pain from the pressure and traction after a short use of the nd thereby preventing its use in his trade, that of a painter. Second, a de-on of tissue and atrophy of the left eyeball, with entire loss of vision of the m old inflammation. Third, a cicatrix on inner side of the right thigh, about 4 above the knee, and one on the posterior part of middle third of thigh, inter-but slightly with the use of the limb.

"Deponent further states that in his opinion the injury to the arm was primarily the result of vaccination while a prisoner at Andersonville, and that the inflammation of the eye resulting in its destruction was a secondary result from the same cause."

Edward H. Muncie, M. D., a graduate of the New York Eclectic Medical College, testifies substantially as does Dr. Stiles, and concludes his affidavit by saying that the last two injuries (arm and eye) are the results of impure vaccination, as stated by Phillips, while he was a prisoner at Andersonville.

It is shown by other statements that the bad condition of the vaccinated arm caused the left eye to be affected, till it finally ran out and became totally blind. The right eye was also affected, and he was blind in both eyes for three months, but finally recovered the sight of the right eye. The claimant is a painter by trade, and his condition greatly interferes with his labor and prevents him to a great extent from supporting his family, consisting of his wife and three children. This man is paid a pension of $6 per month for the wound in the thigh, which was received while he was enlisted, but the Pension Office cannot allow him for the disability to the arm and eye, because he was not enlisted while acting as a teamster. The committee think he should have some pay for the disability accruing from his confinement at the Andersonville prison. Although technically not a soldier, still he was performing arduous and effective service in the heart of the enemy's country, and running all the risks and dangers of death or capture. The committee recommend the passage of the bill, with the following amendments: Strike out, after the word "to," in line 4, the words "place on the pension-roll, subject to the provisions and limitations of the pension laws, the name," and add at the end of the bill the words "and pay him a pension of fifteen dollars per month in lieu of his present pension"; and insert, after the word "to," in line 4, the words "increase the pension."

While this soldier was not strictly in the military service at the time of his last injury, yet he was wounded while on duty formerly in the service as second lieutenant, and is still suffering from such wound. Your committee are disposed to connect his two services; and as claimant was a long time a prisoner in Andersonville, and is severely disabled from impure vaccination while such prisoner, they think he should be pensioned for the rate of his rank, and therefore recommend the passage of the bill.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1251.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 6835.]

*The Committee on Pensions, to whom was referred the bill (H. R. 6835) granting a pension to Bernard Donahue, have examined the same, and report:*

The facts in this case are stated in the report of the Committee on Invalid Pensions of the House of Representatives, made during the last session (House Report No. 1580), as follows:

The petitioner alleges in his declaration for a pension that he enlisted in Company K, First Regiment New York Engineers, at New York City, in October, 1861, as a carpenter or artificer, and that he was honorably discharged at Hilton Head, S. C., on the 14th day of August, 1862. That while the service and line of duty he received a serious disability, as follows: While making corduroy road and building sand batteries on Jones Island in the Savannah River, for the purpose of stopping communication between Fort Pulaski and Savannah City, and while engaged in said work, and by reason of heavy lifting and exposure, he contracted piles so severely that they seem to defy medical skill, and that the disability has been growing worse, so that there is extensive protrusion and protracted bleeding of the parts, the effect of which is very weakening, so much so that he has been unable to do work for the past five years. This affidavit was made in 1875. A prior application was made in 1864, substantially as above, and that since discharge he has been unable to prosecute his work as a carpenter.

The certificate of disability for discharge, signed by S. B. Snow, surgeon volunteer engineers, says:

"I find him incapable of performing the duties of a soldier because of hæmorrhoids. He has obstinate prolapsus ani. He has done no duty for the last four months. Am sure he will never be of any use to the service. Has been suffering from this difficulty more or less for two or three years."

This certificate is dated August 14, 1862.

Application was rejected for the reason that the disability for which pension was claimed existed prior to enlistment.

Thomas M. Riley, John Barnes, John Long, Ferdinand Slote, and Daniel Ferris, in affidavits made separately in 1877, say substantially as follows: "That they knew the claimant from 1851 to 1861; that they frequently saw and worked with him as a journeyman carpenter; never knew him to be subject to the piles, or to have any other seated complaint or disease, and that he was apparently able all of that time to follow his trade."

James Donahue, brother of claimant, Annie E. Fellows, sister-in-law, Mary Ray, sister, Annie Duff, sister, Ellen Donahue, wife, all testify with positiveness to soldier's good health prior to enlistment, and to his debilitated condition after discharge from the service.

Rushford B. Hancock, George F. Wright, Charles Bickford, Moses Lucoste, Edward Corbett, and W. H. Lomsberry, comrades of claimant, all certify to soldier complaining of the disability after the severe labor on Jones Island, some of the affiants certifying to his prior soundness and others to his being sent to hospital.

There is but one certificate of an examining surgeon on file, which says that the applicant is affected with severe hæmorrhoids, a tumor that might be easily removed,

the severe labor of claimant on Jones Island, unhesitatingly ascribe the origin disability to that service, and the family physician, who knew the claiman concur in the fact of prior soundness and present disability.

The committee think there is nothing to disprove the allegation of the petit and therefore recommend the passage of the bill.

Your committee concur in the above report of the House comm and therefore report back the bill with the recommendation that pass.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1252.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 7773.]

*The Committee on Pensions, to whom was referred the bill (H. R. 7773) granting a pension to William E. Ayers, have examined the same, and report:*

The facts in this case are set forth in the report of the Committee on Invalid Pensions of the House of Representatives (House Report No. 2292), made during the present session, as follows:

The petitioner, William E. Ayers, has spent nearly a lifetime in the Army service of the United States. It appears from the records in the Adjutant-General's Office that his first enlistment was on February 1, 1842, as a musician in Company A, First Infantry, for five years, and that five years after, in 1847, he was discharged by expiration of service. He again enlisted in 1848, and his time expiring in 1855, he re-enlisted, and was discharged in 1858 by expiration of service. Under the two last terms of service he was a musician in Company H, Fourth Artillery. His last enlistment was on the 24th December, 1863, in Company E, Twenty-fourth Regiment New York Cavalry Volunteers, and was honorably discharged the 8th of August, 1865. In the last service he was a private.

Declaration for pension was filed June 23, 1877, alleging that at the battle of the Wilderness, Virginia, May 6, 1864, he contracted fistula in ano, and that it was produced by exposure while making breastworks and marching. The Pension Office rejected the claim on the ground of no record of alleged disability, and inability to furnish any evidence connecting it with the service.

The Adjutant-General's report states that in July and August, 1864, he was sick in hospital near Ream's Station, Va., but does not state disability. The Surgeon-General reports him in hospital at this period afflicted with disease of the eyes. There is, therefore, no hospital record or official evidence of the disease for which he claims. Resort must in consequence be had to comrades and others to substantiate the claim.

The claimant in his affidavit says that the disease was contracted on the 6th day of May, at the battle of the Wilderness, by exposure and heavy labor erecting breastworks; that he was never treated in hospital, but was treated by his family physician and another physician, who performed a surgical operation.

John Vickery and Orrin Ackerman, comrades of the claimant, say that the soldier contracted the disease, "fistula," on or about the 6th of May, 1864, while doing duty at the battle of the Wilderness; that he was in neither brigade, regimental, corps, nor division hospitals; that he always performed duty to the best of his ability, although he was not fit to do duty. These affiants say they know this to be true of their own knowledge, for they were intimately acquainted with the claimant, all being members of the same company. They say, furthermore, that the claimant was very badly afflicted with the disease, and that he has been ever since his discharge.

Ackerman, in a subsequent affidavit, says that claimant is all broken up, and that he is incapable of performing any manual labor whatever, so as to aid in the support of his family, and the most of the time is confined to his bed.

Thirteen affidavits of different persons are presented, showing the claimant's soundness and good bodily health prior to enlistment, and that on his return home from the Army he was in a debilitated and enfeebled condition, and that said condition has been continuous and increasing.

is in a most pitiable condition.

It is unfortunate that there is no record or medical evidence while the claim in the service to strengthen his case. His comrades are positive as to the tin the disability was incurred, and as it is shown that the solier was a strong, sou when he enlisted, and that he was weak and debilitated when he returned fr Army, the committee think his case fairly established, and recommend the pa the bill.

There has also been filed with your committee a petition sign many neighbors and friends of the claimant, asking that the pens granted.

In view of all the facts your committee recommend the pass the bill.

C

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1253.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 2520.]

*The Committee on Pensions, to whom was referred the bill (H. R. 2520) granting a pension to Sally Ann Bradley, have examined the same, and report:*

The facts in this case are stated in the following report of the Committee on Invalid Pensions of the House of Representatives, made during the last session of the present Congress (House Report No. 1605).

Sally Ann Bradley is the widow of Thomas J. Bradley, who served as a private in Company D, Twenty-fourth Ohio Volunteers, from June 13, 1861, to October 9, 1865. He was pensioned on account of shell wound of back received at Murfreesborough, Tenn., January 2, 1863, and died October 21, 1882. His death is not entirely chargeable to his military service, and consequently his widow has no title before the Pension Office.

A petition signed by nearly three hundred of the best citizens of the county in which she resides, some of whom have known her and her deceased husband for many years before the late war, sets forth that she is seventy years of age, is as helpless as an infant, and left without means of support, or friends able to assist her.

Having been left destitute by the death of her husband, who served faithfully for more than four years in defense of his country, and who, while in such service, contracted a disability which necessarily impaired his ability to provide for himself and wife a comfortable support in their declining years, your committee are clearly of opinion that she should not now be abandoned to the charity of the world, but be, in a measure at least, provided for in her old days, and therefore report favorably on he bill and ask that it do pass.

This bill proposes to pension a widow of a soldier who was drawing a pension at the time of his death, on the grounds of service and suffering of the soldier, and the great age and poverty of the widow. This claimant is one of a large class, and if widows are to be pensioned in such cases a general law should be passed for this purpose. The Mexican pension bill, which was passed by the Senate at the last session, provides for all such cases. While your committee think this widow should be adopted as a ward of the nation and granted a pension, she is no more entitled to it than many others in like cases. Therefore your committee feel constrained to say that she must await action by Congress, which shall provide not only for herself but for all widows who are her sisters in distress for loss of husbands who, as in this case, suffered grievously for defense of their country. It is believed that such a disposition of this, and of all like cases, will hasten the passage of a general law for the benefit of all widows of soldiers who have died or shall die from any cause while in receipt of pensions. Therefore they report this bill adversely, and recommend it be indefinitely postponed.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1254.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 7386.]

*The Committee on Pensions, to whom was referred the bill (H. R. 7386) granting a pension to Eliza M. Byers, have examined the same, and report:*

The facts in this case are briefly stated in the report of the Committee on Invalid Pensions of the House of Representatives made at the present session (H. R. Report No. 2397), as follows:

The husband of this claimant was sent to attend the wounded at Shiloh, immediately after the battle, in response to the request of the Secretary of War, directed to Governor Morton. He was a physician and surgeon of known ability, and responded with alacrity to the call of the Government for help in its extremity.

The fact of his service as a volunteer surgeon and the value and extent of such service, and the further fact of the incurrence of an incurable disease in the line of duty while serving as such volunteer surgeon, and his death therefrom, are shown by the sworn statements of nineteen witnesses, among them General M. D. Manson, now lieutenant-governor of Indiana; Hon. Thomas B. Ward, a member of this House; William C. Kise, late colonel Tenth Indiana Volunteers; three eminent physicians, and other reputable and well-known citizens of Indiana.

There are numerous precedents for the granting of pensions in such cases, and we recommend the passage of this bill.

Hon. Thomas B. Ward, a member of the House of Representatives, has filed a written statement corroborating the above report from his own personal knowledge. He states that he was one of the party who accompanied Dr. Byers, who was then the leading physician at Frankfort, Ind., with a very large practice; that Dr. Byers contracted a disease which afterwards proved fatal, and thereby lost his practice and died impoverished; that his widow is now sick, without any means whatever, and in imminent danger of becoming a charge upon the county. He also states that Dr. Byers never received a cent for his services at Shiloh.

Your committee recommend the passage of the bill.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1255.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 732.]

*The Committee on Pensions, to whom was referred the bill (H. R. 732) granting a pension to William Weddingfield, have examined the same, and report:*

The facts in this case are set forth in the report of the House Committee on Invalid Pensions (H. R. Report No. 1155), made during the last session, as follows:

William Weddingfield alleges that on or about June, 1864, while on detached duty to drive train, the mule he was on fell, and he was thrown on croup of saddle, striking him in left groin, causing rupture.

The affidavit of John T. Hickman, second lieutenant Company E, First Regiment Potomac Home Brigade Cavalry, Maryland Volunteers, and of which William Weddingfield, the claimant, was a member, states that in the beginning of the month of July, 1864, he had occasion to detail the said William Weddingfield to drive ammunition or baggage wagon, as the regular teamster thereof had deserted, and upon coming to Maryland Heights the said William Weddingfield reported to this affiant that while in the discharge of his duty as teamster he was thrown upon the croup of his saddle, injuring him in the groin. He was never thereafter able to do duty on account of said injury, which seemed to be an internal hurt. He was never sent to hospital; although frequently requested to go there, he would not consent. This affiant was, in the following month (August), sent to hospital, suffering with a wound which he received, and consequently can testify no further.

Walter R. Way, M. D., testifies that he treated William Weddingfield in July, 1864, for an injury in the left side of the abdomen, a few inches above the left inguinal ring, understood to have been received by the claimant while in the discharge of his duty, getting off wagon train from Martinsburg, W. Va., and while defending the same from capture by the enemy, and that he exempted the claimant from any other like duty, awaiting developments in the case, and that he shortly after resigned his position as regimental surgeon to accept a position in the staff corps of surgeons, United States Veteran Volunteers, and therefore cannot complete history of the case; but in his opinion claimant has a permanent rupture in the left side, resulting, as he believes, from said injury as above stated.

The affidavit of Herman Heneman states:

"I have known William Weddingfield since 1853; have seen him at short intervals ever since his discharge from the Army in 1865, and from frequent and constant intercourse with him from that time to the present day know that he is affected and troubled with hernia or rupture from the time of his discharge from the Army up to the present time. Immediately after his return from the service heard him, the said Weddingfield, complain frequently of having been injured in the groin, from which he continually suffered, and complained of his injury for some time, until the hernia or rupture commenced developing or coming down, until it became so large as to be clearly visible whenever he walked or sat down, without removing or opening his clothing; and said Weddingfield is, and has been for several years, totally disabled from doing work."

The testimony of Fred. Mathica, M. D., states that he has been acquainted with

William Weddingfield since the year 1869, and has given him medical treatment since that time, and that Weddingfield was unable to perform any labor during these years.

The affidavit of H. Eigenbrott states:

"Knew William Weddingfield previous to the year 1854, before we came to this country, and belonged to the same lodge, and knew he was a sound and healthy man and free from rupture of groin, otherwise he would not belong, as members of said lodge are required to be able-bodied; and knows from personal intimacy that he, Weddingfield, returned from the United States Army with a rupture upon his person, which now exists."

The affidavit of Francis Waldner states that he has been intimately acquainted with William Weddingfield since the year 1859, at which time we worked in the malt-house, and continued to work there up to about the time he enlisted. He would have been unable to work there had he been a ruptured man, as the work was very hard; was also a member of lodge before he went in the Army, and knows, therefore, that he was not a ruptured man, as no men with any bodily defects upon them are admitted as members; and he also knows that said rupture existed when he, Weddingfield, returned from the Army, and that it now exists.

The affidavit of John Mass states that he was a private in Company E, First Regiment Potomac Home Brigade, Maryland Cavalry, and well knew William Weddingfield, of said company and regiment; that he was a good and faithful soldier, and that on one occasion was detailed by Lieutenant Hickman to drive some wagons, and when he reached Maryland Heights he reported as having injured himself in the groin, as it was generally understood and known by them that said Weddingfield was injured. Deponent further declares that he has resided in close proximity to the said Weddingfield ever since their discharge, and recollects that after his discharge he constantly complained of said injury received in the Army, which affiant understood to be a rupture. Said rupture gradually commenced developing and coming down, until it became so large as to be plainly perceptible without the removal or opening the clothing, rendering the said Weddingfield totally disabled and unable, for the past five years, to do any work whatever. He has been a constant and continued sufferer from said rupture from the time of his discharge to the present time.

The committee, in view of all these facts, reports the bill back, with the recommendation that it do pass as amended: In line 8, strike out all in bill H. R. 732 after the word "volunteers."

The Commissioner of Pensions, in his letter of December 22, 1884, states that the application in this case was rejected—

On the ground that the records of the War Department fail to show the existence of the alleged disability in the service, and the applicant is unable to furnish satisfactory parol evidence to establish origin in the service and line of duty.

Your committee think that the fact of prior soundness sufficiently appears from the evidence of two fellow-workmen. One of them speaks of his "shoveling grain," which he could not have done if he had been ruptured.

They are also of opinion that while there is no record evidence of the origin in the service, that fact sufficiently appears from the above testimony, when the private nature of the injury or disease is considered. There is no doubt that ever since he left the service this disability has been gradually growing worse. The claimant has submitted to one or more operations for his relief, without effect, and the disability, as shown by the examinations, is serious and incurable in its character.

In view of all the facts, your committee recommend the passage of the bill.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1256.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 2437.]

*The Committee on Pensions, to whom was referred the bill (S. 2437) granting a pension to Mrs. Mary Gordon, have examined the same, and report:*

That the claimant is the mother of Samuel F. Gordon, who applied for a pension at the Department, but her claim was rejected on the ground that the records of the War Department afford no information as to enlistment or service of the soldier.

There appears to be ample evidence to show the dependence of the claimant as the mother of the soldier. Her husband died in 1857, and her son, the soldier, died unmarried. The only question to be considered is that of the soldier's service.

William M. Ross, late first lieutenant of Company G, Sixteenth Ohio Volunteers, testifies that Samuel F. Gordon, the son of the claimant, enlisted October 2, 1861, in the forenoon, as a private in that company, and that in the afternoon the said Gordon was shot and killed by the accidental discharge of a pistol. He also swears that the captain of the company is dead, and the original muster-roll cannot be obtained.

This is corroborated by two comrades of the soldier, who swear to his enlistment and muster and accidental death.

It also appears from the papers on file that the claimant is eighty-two years of age, and is and has been for many years a helpless invalid from partial paralysis; and also that she has been supported for seventeen years by a daughter who has been engaged in teaching. The daughter now states that, owing to her mother's increasing helplessness, she is unable to longer provide her a comfortable support.

In view of all the facts in this case, your committee report the bill with a recommendation that it do pass.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1257.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1164.]

*The Committee on Pensions, to whom was referred the bill (H. R. 1164) for the relief of Elenor Stough, having considered the same, and accompanying papers, submit the following report:*

That the committee find the facts to be as stated in House Report No. 451, Forty-eighth Congress, first session, which said report is hereto annexed and made part of this report, and is as follows:

[House Report No. 451, Forty-eighth Congress, first session.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1164) for the relief of Mrs. Elenor Stough, submit the following report:*

George W. Stough was major of the Eighty-eighth Regiment of Indiana Volunteer Infantry, being promoted to that position as a reward for bravery at the battle of Stone River. At the battle of Chickamauga he was fatally wounded and taken prisoner; and as such prisoner he was removed to Libby prison and there died, October 28, 1863.

The claimant, Elenor Stough, was left his widow, with four small children, and in destitute circumstances. As the widow of said Major Stough she was granted a pension by certificate No. 22453 on account of the service and death of her said husband. She continued to receive said pension until 1865, when she intermarried with William Stough, a half-brother of her former husband, and thereupon she was dropped from the pension rolls.

In 1870 claimant was compelled to separate from the said William Stough on account of his cruelties and bad treatment of her and her children. In 1876 she was legally divorced from said William Stough on account of his fault and extreme cruelties, and was thereby restored to her former relations as widow of Maj. George W. Stough, but not to her pension from the United States.

By the letter of the law Mrs. Stough forfeited her pension; and her marriage that worked the forfeiture proved very unfortunate. But courts of equity do not regard with favor forfeitures; and in this case the hardship is so manifest that your committee recommend relief. She is, and for many years has been, living in very destitute circumstances, which would not be if her husband had not given his life to preserve the nation. Her present condition is wholly attributable to the death of her husband in defense of his country. Before his death he provided well for his wife and their children.

In view of the gallant, brave, and self-sacrificing devotion and services of Major Stough, and the present indigent circumstances of his widow, your committee feel willing to follow the precedents foundin the former legislation of Congress. In the case of Eliza M. Bass this committee made a favorable report to the last Congress in a case involving this principle, which became a law. Other parties have been relieved under similar circumstances.

Your committe therefore recommend that Mrs. Elenor Stough be restored to the pension-rolls from and after the passage of this act.

The committee therefore adopt said House report as the report of this committee, and report the accompanying bill for her relief, with recommendation that *it pass.*

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1258.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bills S. 1960 and S. 2074.]

*The Committee on Pensions, to whom were referred the bills (S. 1960 and S. 2074) for the relief of Mary Howard Farquhar, have examined the same, and report as follows:*

Mrs. Mary Howard Farquhar is the widow of Francis V. Farquhar, major, Corps of Engineers, and brevet lieutenant-colonel, United States Army, who died in the service. She was pensioned in 1883 at the rate of $25 per month, with $2 additional for each of three children. Some of the reasons for increasing her petition to $50 per month are set forth in the following extracts from a memorial submitted to the committee by Colonel Farquhar's brother, Commander N. H. Farquhar, of the Naval Academy:

My brother, the late Colonel Farquhar, died suddenly, while on duty, leaving a widow and three children, all girls, with very little for their support. His services, as set forth in the inclosed memorial, to which I ask your attention, were most gallant and meritorious in war as well as in peace. On page 14 they are briefly summed up in a general order. He served the whole of the late war, commencing with the battle of Bull Run.

In addition, Mary Howard Farquhar is the daughter of the late Major General A. S. Williams, U. S. Volunteers, who died a few years ago while a member of Congress. General Williams served his country with great distinction in the Mexican and late civil war. Two important services in the late war might be cited which surely entitle his daughter to great consideration, first in command of a division under General Slocum at the battle of Gettysburg, and secondly in command of the Twentieth Army Corps from "Atlanta to the sea," under General Sherman. No pension has been asked for before in his case for his services.

General W. T. Sherman, in a letter to the Commissioner of Pensions in 1883, speaking of Colonel Farquhar's services and fatal illness, said:

He was an exceptionally conscientious officer and gentleman, whose life was too valuable to be risked, and yet he hated to ask any favor or exemption from duty. Of course he could not move without orders, and the orders for a change came too late, for he died last summer at Detroit, of the causes which began at Washington. His life was as much a sacrifice as if he had been shot by a bullet. I am sure his widow is entitled to a pension. Major Farquhar lived his life manfully, with a confidence that the country would make provision for his family, a provision to which she is doubly entitled, because she was the wife of a splendid officer and the daughter of General A. S. Williams, who commanded the Twentieth Corps under me from "Atlanta to the sea," and from Savannah to Goldsborough. Had Williams served France or Germany his children would not have been humiliated to ask for a pitiful $25 or $30 a month, but would be ennobled and rich with a nation's bounty.

In a letter to Mrs. Farquhar, referring to the above letter, General Sherman says:

But you have a double claim as the daughter of General A. S. Williams. I have always claimed that, by our winter's campaign from Atlanta to Goldsborough, we shortened the duration of the war itself by a full year, or saved this Government a full thousand million of dollars. Your father was one of my four corps commanders, and his honest share of this "saving" would give you "thousands of dollars" instead of "tens," so that through him, as also through your noble husband, you have an honest claim on the bounty of this Government. * * * In any and every event, you may turn to me as witness or advocate of your claim and that of your children to a generous treatment by the agents of the United States.

The evidence on file in the Pension Office shows that Colonel Farquhar, after graduating from the United States Military Academy, was in active service throughout the late war, and was afterwards engaged in important duties in connection with the improvements of the Northwestern Lakes. There is an abundance of testimony from officers of high rank as to the value of his services and his conscientious devotion to duty.

In view of all the facts, the committee recommend the passage of the bill, striking out the word "fifty," in the ninth line, and inserting in lieu thereof the word "thirty."

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1259.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submited the following

# REPORT:

[To accompany bill H. R. 3000.]

*The Committee on Pensions, to whom was referred the bill (H. R. 3000) for the relief of William R. Miller, respectfully report as follows:*

In this case the Committee on Invalid Pensions of the House of Representatives submitted the following report on May 7, 1884:

Your committee have examined this case, and after a careful consideration of the record and proof are of the opinion that the claimant is entitled to the relief asked in the bill.

The Committee on Invalid Pensions of the Forty-seventh Congress had this claim before them and returned a favorable report thereon.

Your committee incorporate in this report the report thereon made to the Forty-seventh Congress, which is as follows:

"It appears from the papers filed in the Pension Office, that petitioner was a scout during the late war for the troops under the command of Capt. James Moore, of the Missouri Militia, operating in Southwest Missouri; that while thus employed he became sick and was left at a citizen's house in Stone County, Missouri; and while there was wounded in the right hand and arm by guerrillas, on or about August 7, 1863, for which he received treatment at the Springfield General Hospital. The petitioner's services and the circumstances under which he was wounded are shown by the affidavit of credible witnesses. The claim has been rejected by the Pension Office because the applicant was not in the military service of the United States at the time of the injury. The committee recommend the passage of the bill."

Your committee report the bill back with recommendation that it do pass.

An examination of the papers confirms the statements made in the above report. It also appears that Miller's story was corroborated by Mark H. Curry and David Hahursk, who testify that Miller was left at their house by Captain Moore, as stated, with orders to rejoin his command the next morning, if he was able to travel; that Captain Moore left one enlisted man and two citizens with Miller; that the house was surrounded by guerrillas during the night; that Miller and his associates made resistance, and that he was injured as claimed in the fight that ensued.

Hon. S. N. Peel, of Arkansas, makes the following statement in this case:

UNITED STATES SENATE,
*Washington, D. C., February* 9, 1885.

*Hon. Senate Committee on Pensions:*

I desire to say in behalf of William R. Miller, whose claim you have under consideration for pension, I am personally well acquainted with claimant; knew him intimately before and since the war. He is a conscientious, honest, good man. I don't believe he could be induced to state a falsehood. I remember the facts touching his relation *with the command* of Major Moore when he was wounded being fully de-

veloped in a lawsuit in which I was an attorney, and remember well that the evidence disclosed that he was a regularly detailed guide for the command of Major Moore, on account of his knowledge of the country through which the command was to move, and that he was left sick, as by him stated, and wounded by guerrillas, as stated. He was not a bushwhacker in any sense of the word. I have seen his wounded hand and arm a great many times. He is badly crippled, and will be for life. I never heard his statement of the case disputed by any one. I am also personally well acquainted with his witnesses, Messrs. Curry and Hahursk; they are honest, illiterate men. Knowing the applicant and his witnesses as I do, I haven't the slightest doubt of a material fact in his case being true as by him stated, and honestly believe if any soldier serving outside of the regular service is entitled to pension he is one of them.

Hoping you will give him a favorable report, I am,

Very respectfully,

S. N. PEEL.

As the Pension Office is unable to grant relief in this case, and as Miller appears to have been engaged in military service, though not regularly mustered, and to have been wounded in the line of this duty, we recommend the passage of the bill.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1260.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. CULLOM, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5082.]

*The Committee on Pensions, to whom was referred the bill (H. R. 5082) granting a pension to Jane Hilton, have examined the same, and report:*

That Ellis Hilton enlisted in Company E, Seventy-fourth Regiment Illinois Volunteers, August 14, 1862, and served until July 1, 1863, when he was transferred to the Invalid Corps by order of War Department because of permanent disability caused by chronic diarrhea. While still in the service he died in the hospital from the effects of a fracture of the skull. The official records are not sufficiently explicit to determine whether or not the fracture was incurred in the line of duty. The widow's application for pension was rejected on the ground that death was caused by a fall while intoxicated, and therefore not in the line of duty. This assumption does not seem to be borne out by the evidence on file. The superintendent of the Buffalo general hospital, where Hilton died, reported to the Department in 1865, that—

> The records of the hospital at that time are very imperfect, and there is no one acquainted with the case now here except the attending surgeon, who states that his impression is that the fracture was caused by a blow from a crowbar, and that it was accidental. As it is only an impression on his part, he is not willing to make a certificate.

While it is not shown that the soldier was injured in the line of duty, neither is it shown that his death was the result of his own carelessness or due to vicious habits. As he was permanently disabled in the service before receiving the fatal injury, and left his family destitute, the committee give the widow the benefit of the doubt, and recommend the passage of the bill.

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[House Report No. 1084, Forty-eighth Congress, first session.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5082) granting a pension to Jane Hilton, submit the following report:*

Ellis Hilton, husband of this claimant, enlisted September, 1862. In July, 1863, he was transferred to the Invalid Reserve Corps on account of permanent disability, caused by chronic diarrhea. On the 13th of October, 1863, while in the service, he died from the effects of a fracture of the skull. The officer in charge of the hospital says, "My impression is he was killed by the falling of a crowbar." The Adjutant-General's report is that he fell and fractured his skull while intoxicated.

The evidence is so meager that your committee are unable to determine whether this man's death was the result of his own negligence or not. It is certainly not clearly shown that this soldier's death was the result of his own vicious habits. He lost his health and his life in the service, leaving a destitute family. The benefit of the doubt ought to be given to the widow.

Your committee recommend the passage of the bill.

DOES NOT CIRCULATE

ɜTH CONGRESS, 2d Session. } SENATE. { REPORT No. 1261.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

r. CULLOM, from the Committee on Pensions, submitted the following

## REPORT

[To accompany bill S. 2262.]

*ıe Committee on Pensions, to whom was referred the bill (S. 2262) granting a pension to Sedate P. Martin, have examined the same, and report as follows:*

This soldier belonged to Company B, One hundred and forty-first linois Infantry Volunteers. He alleges that in August, 1864, while ı a march, near Caseyville, Ky., going down hill in the dark, he epped into a depression and met with a severe shock which resulted a constant pain in the left side; that he never went into hospital, ıt was soon mustered out of the service and returned home; the pain his side continued after his return home, as his neighbors testify. ıe comrades who knew about his injury are dead, and his captain and ıutenants could not be found. There have been three medical examitions made by the Pension Office, which show that the disability is ternal, and that its exact character and location cannot be determined. e is described by the physicians as bent, wrinkled, and decrepit bend his years, his general physical condition being broken and unıady. His condition has brought on heart disease, and he has also come totally blind.

The soldier and his wife have for some years been dependent wholly on the charity of the community in which they live. He is vouched as a worthy, deserving man, and under all the circumstances the mmittee report the bill for his relief favorably, and recommend that do pass.

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CONGRESS, Session. } SENATE. { REPORT No. 1263.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

ıCKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 2136.]

*ɔmmittee on Pensions, to whom was referred the bill (H. R. 2136) ting an increase of pension to Merlin C. Harris, have examined the ?, and report as follows:*

:he last session of Congress the committee reported against this ı the ground that the disability of the claimant, for which he was ned, was contracted while he was a sergeant, and that he was ·ly rated. Additional testimony has since been filed, on which the ıs recommitted, and in the light of this new evidence it may fairly sumed that the disability from which the soldier is suffering was ıcted while he held the rank of first lieutenant, and that his pen- ıould be increased from the amount now paid him as sergeant to ıount paid a first lieutenant, as provided in the bill.

committee accordingly report back the bill to the Senate with the nendation that it do pass.

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DOES NOT CIRCULATE

8TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1264.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

·. JACKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3328.]

*ıe Committee on Pensions, to whom was referred the bill (H. R. 3828) granting a pension to Cornelius Wessels, have examined the same, and report as follows:*

That the said Cornelius Wessels was employed in the Quartermaster's epartment from October 1, 1864, until February 1, 1866. In February, 869, he filed an application for pension, alleging disability from having s right hand crushed, causing amputation of two fingers, while coupıg cars at Vienna Station, Va., January 27, 1865.

The Quartermaster-General reports that the claimant was employed the Quartermaster's Department, as foreman of laborers, from Octoır 1, 1864, to February 4, 1866. The claimant says he belonged to an ganization called the "Fourth Regiment Quartermaster Volunteers," ıt the Adjutant-General reports that there was no such military orınization known in his office. The Quartermaster-General states that id organization was composed of "civil employés" of the Quartermasr's Department employed in and about Washington, D. C., and vicinity. he claimant was engaged in hauling Government wood when he reived the injury for which he asks a pension. The claim was rejected cause the claimant was only a civil employé and not in the military rvice of the United States. This action of the Pension Office was early correct.

The claim comes within neither the letter nor spirit of the pension ws, and if allowed should be extended to all civil employés injured in e service of the Government. Such an extension should not, in the inion of your committee, be made. They accordingly recommend the lefinite postponement of the bill by the Senate.

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48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1265.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 6851.]

*The Committee on Pensions, to whom was referred the bill (H. R. 6851) for the relief of Mary G. Reader, have examined the same, and report as follows:*

Azzur W. Reader enlisted March 22, 1865, as carpenter's mate on the U. S. S. Kate, and was discharged September 1, 1865. On the 10th June, 1879, he filed his application for pension, alleging as the basis of his claim that on or about the 15th June, 1865, while in the service on the Mississippi River, he received an injury of the spine, caused by arising from scrubbing his hammock in answer to call to "swing hammocks," and striking the under side of the muzzle of the bow gun with such force as to prostrate him and prevent his rising without assistance, which injury he claimed had produced hernia, and resulted in total disability.

After investigation by the Pension Office the claim was rejected "because there is no record of the alleged disability, and the testimony is insufficient to establish origin" in the service. The claimant was suffering with hernia at the date of his application, but the Department did not accept the theory that the same was caused by the injury to back, as claimed. This rejection was in 1882. The said Reader then applied to Congress for special relief, and on the 25th April, 1884, the House passed a bill (H. R. No. 3466) directing his name to be placed upon the pension roll, subject to the provisions and limitations of the pension laws, from and after the passage of the act.

Before any action was had upon said bill in the Senate the said Azzur W. Reader died, and the House thereafter, the 13th of June, 1884, passed the bill under consideration for the relief of Mary G. Reader, directing that her name be placed on the pension roll as the widow of said Azzur W. Reader, deceased, and that she be paid a pension as such widow from and after the passage of the act. There is nothing in the papers before your committee to show what caused the death of said Azzur W. Reader. It does *not* appear that the original hernia of the right side, which constituted his claim for pension and for which disability he was rated at only one-half when last examined, had any connection with his death or directly contributed in producing the sickness or disease of which he died. There is no evidence before your committee that the said Mary G. Reader was his lawful wife. She has made no application

DOES NOT CIRCULATE

I CONGRESS, } SENATE. { REPORT
d Session. } { No. 1267.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

JACKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1024.]

*Committee on Pensions, to whom was referred the bill (H. R. 1024) anting a pension to Charles D. Duncan, have examined the same, and port as follows:*

hat the said Charles D. Duncan enlisted December 16, 1861, as a ate in Company B, Fourth New York Heavy Artillery, and was dis- rged December 2, 1864, at the expiration of his term of service. uly, 1876, he filed his application for pension, alleging that he had ribs broken in left side by a bursting shell at Ream's Station, ginia, August 25, 1864. The records show that the soldier was ad- ed to hospital about the date of the alleged injury, for "diarrhea." was neither treated in hospital for the alleged injury, nor is he men- ed in the list of casualties of the Ream's Station engagement. Only comrade speaks of his being wounded in that engagement. This rade says a fragment of a shell struck him in the side, but does not ify as to the nature or extent of the injury. There is no evidence permanent injury has resulted from the alleged broken ribs, or that s at present disabled therefrom.

he claim, as the case now stands, rests practically upon the claim- s own statement as to origin of alleged disability. Its existence in service or at date of discharge is not shown, nor does it appear that s now or has been since discharge suffering any disability from the ged injury. The claim is not properly supported or sustained. It rejected by the Pension Office for the reason then stated, viz, that he absence of record evidence and the testimony of officers and com- es, the applicant was unable to furnish parole testimony to estab- origin of alleged disability in the service and line of duty.

Ve think there was no error in this action of the Commissioner of sions, and there being no new or additional evidence in the case, committee do not feel warranted in reversing that action on the e state of facts. The committee recommend the indefinite postpone- t of the bill by the Senate.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1267.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 1024.]

*The Committee on Pensions, to whom was referred the bill (H. R. 1024) granting a pension to Charles D. Duncan, have examined the same, and report as follows:*

That the said Charles D. Duncan enlisted December 16, 1861, as a private in Company B, Fourth New York Heavy Artillery, and was discharged December 2, 1864, at the expiration of his term of service. In July, 1876, he filed his application for pension, alleging that he had two ribs broken in left side by a bursting shell at Ream's Station, Virginia, August 25, 1864. The records show that the soldier was admitted to hospital about the date of the alleged injury, for "diarrhea." He was neither treated in hospital for the alleged injury, nor is he mentioned in the list of casualties of the Ream's Station engagement. Only *one* comrade speaks of his being wounded in that engagement. This comrade says a fragment of a shell struck him in the side, but does not testify as to the nature or extent of the injury. There is no evidence that permanent injury has resulted from the alleged broken ribs, or that he is at present disabled therefrom.

The claim, as the case now stands, rests practically upon the claimant's own statement as to origin of alleged disability. Its existence in the service or at date of discharge is not shown, nor does it appear that he is now or has been since discharge suffering any disability from the alleged injury. The claim is not properly supported or sustained. It was rejected by the Pension Office for the reason then stated, viz, that in the absence of record evidence and the testimony of officers and comrades, the applicant was unable to furnish parole testimony to establish origin of alleged disability in the service and line of duty.

We think there was no error in this action of the Commissioner of Pensions, and there being no new or additional evidence in the case, the committee do not feel warranted in reversing that action on the same state of facts. The committee recommend the indefinite postponement of the bill by the Senate.

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DOES NOT CIRCULATE

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

r. JACKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 2156.]

*he Committee on Pensions, to whom was referred the bill (S. 2156) granting a pension to Corydon Millard, have examined the same, and report as follows:*

That the said Corydon Millard enlisted in April, 1861, as a private in ompany F, Fourth Regiment New York Volunteers, but was disarged the same month on account of unfitness for service, his disility consisting of a broken leg, which occurred some eight years preous to enlistment. On the 21st July he again entered the service as aplain of the Fourth Regiment United States Colored Heavy Artilry, and was discharged in 1865.

In September, 1866, he filed his application for pension, alleging that August, 1865, he took jaundice, which resulted in injury to left lung d produced general debility. In a subsequent affidavit he stated that s left leg was broken before enlistment, and that the disease and exsure incident to the service aggravated the old injury of the leg, which casionally would gather and discharge pus, and in addition to the leged debility from jaundice he claimed increased disability from the oken leg.

The claim was rejected in 1867, was afterwards reopened, and again jected in 1870 on the ground that claimant's only disability existed ior to enlistment, &c. The claimant appealed to the Secretary of the terior, who affirmed the decision of the Pension Office. The boards examining surgeons attributed the claimant's disability to the broken g, which was always irritable and often discharging pus. The last oard which examined claimant, in November, 1881, reported upon his se as follows:

Physical examination reveals nothing abnormal in either lung. He sustained a mpound comminuted fracture of middle portion of left tibia eight or ten years preous to enlistment. There is at present a large adherent cicatrix at seat of fracture, d enlargement of lower fragment of tibia, with some displacement. His general alth and condition are A No. 1. Judging from his present condition and from the idence before us, it is our opinion that the said disability did not originate in the rvice—

d the board declined to rate him. The claimant still pressed his case efore the Pension Office, and early in 1884 he was informed that he uld *still file his* affidavit as to any disability that he incurred in the

service and line of duty, and if corroborated by testimony the claim would be reopened and be again considered. But to this no response was made, and the claimant applied to Congress for relief. No new additional testimony is presented in support of his claim.

Your committee have no doubt as to the correctness of the Commissioner's action in rejecting the claim, and they accordingly recommend the indefinite postponement of the bill by the Senate.

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1269.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 2148.]

*The Committee on Pensions, to whom was referred the bill (S. 2148) granting a pension to William A. Penfield, have examined the same, and report as follows:*

That the said William A. Penfield was mustered as a private in Company F, Ninth Vermont Volunteers, August 4, 1864, for one year, and was discharged June 13, 1865. On the 18th August, 1880, he filed his application for pension, alleging that in June, 1865, at Manchester, Va., he contracted rheumatism of left hip and leg. He states that he had no hospital treatment during the service.

In his first affidavit, in the nature of an informal application, he alleges that the disease was contracted in January, 1865. In response to a call of the Pension Office for medical evidence of alleged disease at date of discharge and since, he states, in a letter filed October 20, 1881, that since his discharge he has done his own doctoring, by using rheumatic remedies.

Two comrades speak of the claimant's being unfit for duty in November, 1864, from exposure, but the rolls of his company show him present for duty every day. They also state that he contracted a violent cold in June, 1865, but they do not show the existence of the alleged disability—rheumatism—in the service at date of discharge. Several parties speak of his having some lameness, and Dr. D. G. Hart in an affidavit made in April, 1884, states that the claimant's left leg is about one and one-half inch shorter than the other, and that he has partial *dislocation* of the hip joint—the foot standing at nearly right angle to the body. The agent or officer of the Government who enlisted the claimant in 1864 states that at the time of his enlistment the soldier's left leg was shorter than the other.

It is not shown or claimed that his lameness was caused by the alleged rheumatism. The claim was rejected by the Pension Office on the ground that the records fail to show the existence of the alleged disability in the service, and because the claimant was unable to establish its origin in the service by any satisfactory evidence or its existence at date of discharge and for eight years thereafter. Two or three additional affidavits have since been filed, but they do not change the evidence or remove the grounds of difficulty in the way of the allowance of the claim.

Your committee think it was properly rejected and that this rejection should be adhered to, and they accordingly recommend the indefinite postponement of the bill by the Senate.

DOES NOT

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1270.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 3901.]

The Committee on Pensions, to whom was referred House bill 3901, granting a pension to Mrs. Olive W. Parker, have examined the same, and report favorably, recommending its passage.

The following affidavit, with the indorsement of Hon. S. L. Milliken, is herewith submitted. All other essential facts are in the proof before the committee. In our belief a great injustice is done when upon such a case a pension is denied under the general law. The House has passed the bill.

Stephen N. Parker, enlisted in the Ninth Massachusetts Battery, from Cambridge, Mass., in July 1862, and served until the close of the war. Was in thirteen battles, in every one of which his battery was called into service. I have a letter from Captain Bigelow, in which he speaks of Mr. Parker in the highest terms. At the battle of Gettysburg he was struck by a piece of shell which exploded over his gun, and received injury to his head. The wound from the shell was upward from his forehead, cutting through his cap; but from this he did not suffer, as from concussion of the brain, from the effects of which he never recovered. He remembered nothing for three days after the injury, and from that time was not clear in his mind, and had frequent spells of insanity. He refused promotion at two different times because he was conscious that his head was not right. From the time of his coming home until his death, he was subject to severe spells of headache, and aberration of mind. He had a sore in his head, which troubled him exceedingly, discharging by spells, and never at any time well.

His physician asserts that this was the direct result of his injury. What he suffered and what his family suffered in all these years is beyond the power of description. In his worst fits of insanity he would wander off at night, and on the night of May 24, 1876, he was away from home, and had one of these attacks, with no one to watch him, and in his wanderings took a severe cold, which added to the discharge of matter from his head, producing the throat trouble with which he died June 1st, one week after. His sickness and death were the direct result of his injury in the Army, to which fact his physician has testified. His wife was left with three small children and no property. The Soldiers' Aid Society of Boston gave the widow four dollars per month for nearly two years, knowing her to be deserving and believing a pension would be granted on the evidence produced. This claim for some reason was rejected, and the small aid withdrawn. In applying for a pension Mrs. Parker appeals only to *justice*. If that be done her, I have no fears as to the result.

R. W. SOULE.

[Indorsement on preceding statement.]

HOUSE OF REPRESENTATIVES,
*February* 6, 1885.

DEAR SIR: The within statement contains the facts in this case as they have come to my knowledge. There can be no question but this man came to his death by reason of the injury which he received at the battle of Gettysburg. He never recovered from the effects of that injury, and whether the sores in his tonsils was the effect of that concussion or injury, his mental aberration, during which he wandered off and suffered such exposure as to cause these sores to result in death, was unquestionably caused by his injury at Gettysburg.

S. L. MILLIKEN.

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48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1271.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 2268.]

The Committee on Pensions, to whom was referred the bill (S. 2268) granting a pension to Robert J. Ballort, have examined the same, and report, recommending its passage.

This is a case where, if the applicant must make out a case before the Pension Office beyond a reasonable or possible doubt, he may fail; if he is to be treated as well as the party in an ordinary civil case in the courts he should have prevailed there and have had the benefits of the law long since. Nothing is more required in the administration of the pension laws than uniform rules of evidence as liberal as those of the common law. The Congress might find in this direction the opportunity of rendering claimants and the administrators of the law an important service.

We print one document from the Pension Office:

DEPARTMENT OF THE INTERIOR, PENSION OFFICE,
*Detroit, Mich., October* 11, 1883.

SIR: I have the honor to return herewith the papers in original invalid claim No. 321037 of Robert J. Ballort, late private Company H, Eighth Michigan Cavalry, for adjudication on report of Special Examiner George C. Kober.

After a careful review of this claim in connection with No. 324597 of John T. Ballort (also transmitted to-day), I am led to differ from the conclusions of the special examiner in this case, and I recommend its admission for chronic diarrhœa.

Very respectfully,

WM. T. SULLIVAN,
*Supervising Examiner.*

Hon. WM. W. DUDLEY,
*Commissioner of Pensions, Washington, D. C.*

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48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1272

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 4317.]

The Committee on Pensions, to whom was referred House bill 4317, granting a pension to Julia Chambers, have examined the same, and reports recommending its passage with an amendment reducing the amount from $20 to $12.

Mr. Blair, for the minority, opposes the amendment, and the following House report is a statement of the facts of the case:

[House Report No. 535, Forty-eighth Congress, first session.]

The Committee on Invalid Pensions of the Forty-sixth Congress recommended the passage of this bill. We think they were justified in so doing.

For the reasons set forth in their report, which is hereto annexed, and which we ask shall be made part hereof, we recommend the passage of the bill.

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[House Report No. 173, Forty-sixth Congress, third session.]

*The Committee on Invalid Pensions, to whom the subject was referred, submit the following report:*

Julia A. Chambers is a pensioner at the rate of $8 per month, which she asks Congress to increase to $20 per month.

It appears that petitioner is the widow of Ordnance-Sergeant John Chambers, United States Army, who died in the United States military service at Fort Monroe, January 30, 1879, after having served in the Army nearly half a century. It also appears that she is the daughter of William Johnson, who was in the military service of the United States for a period of thirteen years, and who was discharged therefrom by reason of wounds contracted in battle with Indians.

Petitioner alleges that she is sixty years of age; that the greater portion of her life has been spent in the Army with her husband and father. She states that she is infirm in addition to the disability on account of age, and that the pension now paid her is wholly inadequate to satisfy her necessities.

In view of the fact that this is an exceptional case; that she suffered the hardships of her husband and father, in their long services in the Army, the committee think the relief asked should be granted, and they recommend that the bill herewith reported do pass.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1273, and views of minority.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 2242.]

The Committee on Pensions, to whom was referred Senate bill 2242, granting a pension to Mary E. Crimmins, have examined the same, and report, recommending the indefinite postponement of the same. The facts are contained in the three statements following.

Mr. Blair, for the minority, recommends the passage of the bill.

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(For precedents see chapter 422, Forty-seventh Congress, first session, Martha A. Jones; chapter 418, Elizabeth Leebrick; chapter 411, Amos Chapman; chapter 368, David T. Stephenson; chapter 324, Mary Wade.)

1.

STATE OF RHODE ISLAND,
*County of Newport, ss:*

OFFICE CLERK SUPREME COURT.

James G. Topham, being sworn, says: My residence is No. 9 North Baptist street, Newport, R. I. I am now, and was in 1874, one of the coroners of this city. On the 22d day of February, 1874, as such coroner, I held an inquest upon the body of Patrick Crimmins, at the torpedo works, on Goat Island, in this city. After hearing the evidence, the verdict of the jury was that the body was that of Patrick Crimmins, and that he came to his death, by suffocation, while in the line of duty and service of the United States, in the gas-room. I am disinterested.

JAMES G. TOPHAM,
*Coroner.*

Subscribed and sworn to before me, the 18th day of April, 1884, and I hereby certify the affiant to be credible and well known to me as the officer he represents himself to be, and that I am every disinterested.

[SEAL.] THOS. W. WOOD,
*Clerk.*

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2.

UNITED STATES TRAINING-SHIP NEW HAMPSHIRE (1st Rate),
*Newport, R. I., April* 12, 1884.

I hereby certify that the late Patrick Crimmins was employed at the torpedo station, Goat Island, Newport Harbor, under my command, from its commencement in the fall of 1869 to July, 1873, when I was detached; and I have reason to know that he continued to be so employed until and at the time of his death, in January, 1874.

He was a most faithful, reliable man; though not a trained machinist, he was so handy with tools, so very trustworthy and intelligent in whatever he was called upon

to perform, that he became as useful as a regular machinist; and he finally lost his life in the execution of a duty for which he had been selected, owing to his steadiness and intelligence.

He left a widow and children in needy circumstances.

E. O. MATTHEWS,
*Captain, U. S. Navy.*

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3.

NAVY-YARD, BOSTON, *April* 9, 1884.

*To whom it may concern:*

Patrick Crimmins, employed as machinist's helper at the naval torpedo station on Goat Island, Newport, R. I., in the winter of 1873–'74, the date forgetten, the torpedo station then being under my command, lost his life while in the performance of one of his regular duties. He had charge of a gasoline vault, which he was obliged to enter in order to turn on the flow of gas each evening. On the date, forgotten, above referred to, not having returned to his home at the usual hour in the evening, his friends sent to the island to inquire for him. Search was made, and his dead body was found in the gasoline vault. Upon investigation it was learned that he had been seen but a few minutes before the usual time for the workman's boat to leave the island, running towards the vault, and that he had not again been seen alive. It was concluded that having been detained in some way beyond his usual time for visiting the vault, he was obliged to run in order not to miss his boat; that having thus exhausted his breath before entering the vault, he had taken deep respirations, drawing in so much of the gasoline fumes as to overcome and finally to suffocate him. He was an excellent, quiet, sober, and industrious man, whom I had known for several years. He was put in charge of the vault through confidence in his intelligence, and it was not deemed that there was any danger in entering it, nor, indeed, was there, except for the momentary condition in which he doubtless was.

Very respectfully,

EDWARD P. LULL,
*Captain, U. S. N.*

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1274.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 8133.]

The Committee on Pensions, to whom was referred the bill (H. R. 8133) granting a pension to Thomas McGill, have examined the same and report, recommending its passage.

The facts are stated in the House report, as follows:

We find that in 1864 the steamer Sallie List was employed by the United States Government, and was used in transporting troops and supplies between Louisville, Ky., and the mouth of Red River. On or about the 25th of May, 1864, while the boat was under the orders of General A. J. Smith, commanding the Union forces at Vicksburg, it was ordered to Memphis. While on the river and near the foot of Yellow Bend, on the Arkansas side of the river, the boat was fired upon by a force of Confederate soldiers, commanded by General Marmaduke. The boat was badly damaged and claimant was severely wounded. One shot entered the right shoulder, penetrating the body and coming out at the back; another shot pierced his left wrist. Claimant was, at the time of receiving the wound, pilot of the steamboat.

The proof seems conclusive that the steamer was in Government employ at the time that claimant was occupying the dangerous and responsible position of pilot, and while faithfully discharging his duty received the wounds as above described. The Pension Office could not grant a pension for the reason that he was not an enlisted man. The committee have uniformly recommended pensions to employés wounded in battle, and they therefore recommend the passage of the bill.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1275.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 6011.]

The Committee on Pensions, to whom was referred the bill (H. R. 6011) granting increase of pension to Robert Carey, have examined the same, and report favorably, recommending its passage.

The following affidavit is a description of the condition of the soldier, and it seems difficult to set forth a more deplorable condition:

STATE OF OHIO,
*County of Defiance, ss:*

In the pension claim of Robert Cary, late of Company I, Ninety-ninth Ohio Volunteers.

Personally came before me, a clerk of court in and for the aforesaid county and State, D. P. Aldrich, M. D., a citizen of Defiance, Ohio, whose post-office address is Defiance, Defiance County, Ohio, well known to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to aforesaid case as follows:

I have been the family physician of said Robert Cary for the last six years past, and know from personal knowledge that said Robert Cary is totally disabled, and his condition is such that he requires the constant aid and assistance of some person to care for him, on account of being disabled by a gunshot wound which severed the urethra, which never healed up; and there is now three openings in the right hip at which matter and urine are discharged continually. There is also one opening on the inside of the left thigh which discharges urine and matter. These openings were caused by infiltration of the urine: and further, that his case is one which requires medical aid quite frequently on account of the urine burrowing between the muscles of the hip and thighs, which causes great suffering. [For a full description of wound, see examining surgeon's report in Pension Office.]

He further declares that he has been a practitioner of medicine for twenty-three years, and that he has no interest either direct or indirect in the prosecution of this claim.

D. P. ALDRICH, M. D.

Sworn to and subscribed before me this 7th day of February, A. D., 1885.
[SEAL.] JNO. P. CAMERON,
*Clerk of Court.*

(Indorsed:) Medical evidence. Affidavit of Dr. D. P. Aldrich. Claim of Robert Cary, for increase of pension.

The name should be changed from "Carey" to "Cary."

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1276.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 481.]

*The Committee on Pensions, to which was referred the bill (H. R. 481) for the relief of John D. Bridges, has examined the same, and reports:*

That the soldier is entitled, on the record in the case in the Pension Office, to the rate provided for in the bill, and has been since January, 1883, and on the case being called to the attention of the Pension Office on the facts shown by the papers in the office, a rerating has been ordered at the rate named in the bill, to date from January, 1883.

The bill is therefore reported adversely, and it is recommended that it be indefinitely postponed.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1277.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 1836.]

*The Committee on Pensions, to which was referred the bill (S. 1836) granting a pension to Sarah Hogue, has examined the same, and reports:*

That Sarah Hogue is the mother of M. C. Hogue, who was a private in Company L, Sixth New York Heavy Artillery. The soldier was enlisted January 4, 1864; was wounded in battle near Bethseda Church, Va., May 30, 1864, was captured by the confederates, and taken to Richmond, Va., placed in rebel general hospital, where he died June 17, 1864. These facts appear from the records in the offices of the Adjutant General and Surgeon-General, United States Army.

The said Sarah Hogue applied for a pension as a dependent mother. Her claim was rejected on the ground "that the claimant was not dependent upon the soldier, as her husband was able to, and did, support her at the time of the soldier's death."

The committee is not of the opinion that this finding is supported by the record and proofs in the case. On the contrary, it does appear that the son did contribute to the support of his parents; that the husband was so afflicted with disease that the results of his labors were not sufficient to support the family, and that it required the efforts of all the members of the family, the assistance of friends, and the strictest economy to effect what the said finding of the Pension Office alleges the husband alone did. This being the case, the committee can but believe that this mother, whose son died in a rebel prison from wounds received in battle, and who had contributed to her support, and to whom she had looked for aid for years, is entitled to a pension. The bill is accordingly reported with a recommendation that it do pass.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1278.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

r. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 7571.]

*he Committee on Pensions, to which was referred the bill (H. R. 7571) granting a pension to Cornelia V. Blackman, has examined the same, and reports:*

That the proof in this case as to the origin of the disease which was ıe immediate cause of the death of the husband of the said Cornelia . Blackman is circumstantial. No medical testimony is presented, and s absence is explained by proof that all of the physicians who attended ieutenant Blackman prior to and during his last sickness are dead. he Committee on Invalid Pensions of the House of Representatives ıade the following statement of the case in its report to that body, viz:

*he Committee on Invalid Pensions, to whom was referred bill H. R. 7571, submit the following report:*

We find that claimant is the widow of Lieut. Harvey C. Blackman, Company H, ighth Kansas Volunteers, who enlisted January 30, 1862, and served until January , 1866. His death occurred September 12, 1871, from paralysis. The case was re- cted in the Pension Office because it was not medically established that the dis- se of which he died originated in the service.

Frank Curtis testifies—

"That during the years 1862 and 1863 he was first lieutenant of Company H, Eighth ansas Volunteers, and during said time H. C. Blackman was second lieutenant. ıeutenant Blackman was with his command in the discharge of his duty on the arch from Columbus, Ky., to Corinth, Miss., then to Jacinto, Miss., Eastport and lorence, Ala., Nashville, Tenn., Louisville, Perryville, and Crab Orchard, Ky., and ıence back to Nashville, Tenn. That said Blackman, being a large, heavy man, his nbs became lame and diseased in consequence of his hard marching, so much so ıat at the time of our arrival at Nashville the second time, on or about the 6th day November, 1862, he was unable to continue on duty with his command, and was dered on special duty as judge-advocate in Nashville, he being specially qualified r that duty. That during the year 1863 and the early part of 1864 affiant saw said lackman a number of times, and that each and all of said times he was still suffer- ıg, being, as affiant knows of his own knowledge, unable to stand or walk, and ıat, as affiant is informed and believes, he died from the effects of this trouble ith his limbs."

Collin Ford testifies to the same facts as Mr. Curtis, and adds:

"I served on same commission with Lieutenant Blackman for several months, and ter our muster out of service we entered into partnership and practiced law to- ther from January, 1866, until March, 1870. The acquaintance of affiant and said lackman was very intimate during the period named. Said Blackman had large aricose veins on his legs, was subject to vertigo, and had a paralytic tendency, all which said Blackman always claimed was brought on by hard marching with uell's army."

Several other witnesses testify to the same facts, and to his soundness during the

first eight months of service. The claimant is a helpless cripple, and without any means of support. The following, from Hon. S. R. Peters, a member of the present House, explains fully her condition:

HOUSE OF REPRESENTATIVES,
*Washington, January* 12, 1885.

DEAR SIRS: Permit me to call your special attention to H. R. 7571, granting a pension to Mrs. Cornelia V. Blackman, widow of H. C. Blackman, late a lieutenant in the Eighth Kansas Volunteer Infantry. I am personally acquainted with Mrs. Blackman. She is an intelligent lady of sixty-one years of age, who is unable to walk, and is entirely without means of support, except as she gains it by her needle while reclining upon her couch, which she is unable to leave without assistance. The pension applied for could not be granted because of her inability to furnish medical testimony showing the death of her husband to have been the result of disability incurred in the service. The reasons for this inability are set forth in her own affidavit filed in the case. I have made considerable inquiry, not only from the applicant herself, but also from others having some knowledge upon this subject, and am thoroughly convinced of the correctness of her statements. I can fully indorse this lady as one of high character and respectability, whose patient but severe sufferings appeal strongly to the Government for such recognition as is asked by the bill.

Very respectfully,

S. R. PETERS.

While there is an absence of medical evidence required by the Pension Department to establish a case, still your committee think it is clearly shown by an abundance of lay evidence that the soldier was an able-bodied man when he enlisted; that he lost his health in the Army, and that he finally died six years after from the effects of his military service, and they therefore recommend the passage of the bill.

Many other circumstantial statements than those here given appear in the evidence in this case, all tending to show that Lieutenant Blackman was physically wrecked by reason of his service in the Army, and the writer of this report can state that Lieutenant Blackman, both while serving on detached duty as judge-advocate at Nashville, Tenn., and after his return to Ohio, stated in correspondence which passed between them, complained of the physical conditions described by the witnesses who have testified in this case. This fact strongly supports the testimony of said witnesses. There seems to be no doubt that Lieutenant Blackman incurred disabilities in the service and in the line of duty which aggravated, if they did not directly induce, the disease which caused his death.

The widow is very poor, and, owing to the present condition of her health, is dependent on others for even the necessaries of life. When her health will allow of personal endeavors, she supports herself as best she can by the work of her hands. Her dead husband gave his services to the country in the Mexican war and in the war of the rebellion. In the latter his health was broken, and it is the judgment of the committee that his widow should have a pension. The bill is therefore reported with a recommendation that it do pass.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1279.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 7313.]

*The Committee on Pensions, to whom was referred the bill (H. R. 7313) granting a pension to Charles W. Baldwin, have examined the same, and report:*

That an examination of the record and proofs in this case supports the statement of the case made by the Committee on Invalid Pensions of the House of Representatives to that body, and which is here quoted, as follows, viz:

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7313) granting a pension to Charles W. Baldwin, respectfully report:*

That claimant enlisted in the military service of the United States as a private in Company C, Nineteenth Regiment Illinois Volunteers, June 17, 1861, and was honorably discharged July 9, 1864.

November 5, 1875, he filed a declaration for pension, alleging that in the fall of 1862, at Nashville, Tenn., he was ruptured in his side, and that at the battle of Stone River he was wounded in his privates and in the leg, between the knee and ankle, and also contracted diarrhea and piles in the service and in line of duty, which was rejected on the ground of no record and claimant's inability to furnish the testimony of commissioned officers as to origin of disability. The case was subsequently reopened and two investigations had by special examiners of the Pension Office, and again rejected.

The testimony in the case is voluminous and conflicting in character, but the fact of the soldier being a sound, able-bodied man, free from disability of any character, prior to and at the time of his enlistment in the military service of the United States, is conclusively established, as is also the fact of the soldier being ruptured and disabled by the loss of one of his testicles, at the time of his discharge from the service. Two comrades of the soldier testify to personal knowledge of the disability and to the manner of its origin, and the reputation of these witnesses is shown to be good, and your committee have given the soldier the benefit of any doubt in this matter and accepted the evidence of the personal knowledge of the comrades as conclusive as to the manner of the incurrence of the disability.

The testimony of the physicians who have treated claimant show a continued increase of his disability and its results, in the loss of energy and vitality, and general debility, and all agree in attributing this condition of his health to his Army service, and the board of United States examining surgeons find the same general conditions to exist, and rate his disability all the way from one-fourth of total to third grade.

In view of these facts, your committee recommend the passage of the accompanying bill, amended, however, by striking out the letter "C" in the name of the soldier, in line 5 of said bill, and inserting in lieu thereof the word "Charles," and that the same amendment be made in the title of said bill.

The conclusion of the House committee is concurred in, because in applying the circumstances detailed in the testimony of the several witnesses who testify as to the soldier's condition before service, during the time he was in the Army, and since discharge, his present undisputed disabilities seem to be perfectly consistent with, if, indeed, not necessary results of, his military service.

The bill is accordingly reported with a recommendation that it do pass.

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48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1280.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 6653.]

*The Committee on Pensions, to which was referred the bill (H. R. 6653) granting a pension to Mary C. Axline, has examined the same, and reports:*

That the report of the Committee on Invalid Pensions of the House of Representatives makes the following statement of this case, viz:

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6653) granting a pension to Mary C. Axline, respectfully report:*

That claimant is the widow of Jacob Axline, who was a first lieutenant of the "Hickman's Mills" Enrolled Missouri Militia, who was enrolled April 5, 1862, and was killed by "bushwhackers" June 1, 1864.

The application of the widow was rejected by the Pension Office November 2, 1875, on the ground "that the person on whose account pension is claimed was a member of the Enrolled Missouri Militia, and that the claim was not prosecuted to a successful issue within the time prescribed by law."

It is disclosed by the evidence in the case that the officer, who had been commissioned first lieutenant of the company after enlistment, was passing from Hickman's Mills, where his company was stationed, with a part of the Second Colorado Cavalry, to Westport, Mo., another military station, and was shot and instantly killed by concealed bushwhackers, who made their escape.

It is also in evidence that the widow has never remarried. Your committee think the widow of this officer, who lost his life in defense of his country, should receive a pension, and therefore recommend the passage of the accompanying bill, amended, however, by striking out the word "private," in line 5, and inserting the words "first lieutenant," and by striking out all after the word "militia," in line 6, and inserting in lieu thereof the following: "subject to the provisions and limitations of the pension laws."

If this case comes within the provision of the law on which the decision of the Pension Office was based, it seems strange that the Commissioner of Pensions should have called on the claimant for additional evidence subsequent to July 4, 1874. But this he did as late as September 19, 1874, and this leads the committee to the conclusion that he then regarded the case as within section 4722 of the Revised Statutes; and this, no doubt, was the correct view of the case, while the one on which it was rejected was erroneous; and as it appears, as stated in the report of the House committee, that the soldier, though a member of the Missouri militia, was co-operating with the United States forces, and therefore under the command of officers in charge of such forces, and lost his life as stated, the committee concludes that the widow is entitled to a pension. The bill is therefore reported with a recommendation that it do pass.

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DOES NOT CIRCULATE

ɔTH CONGRESS, 2d Session. } SENATE. { REPORT No. 1281.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

r. WILSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 2325.]

*ie Committee on Pensions, to which was referred the bill (H. R. 2325) granting a pension to Helen M. Harrison, has examined the same, and reports:*

That Helen M. Harrison is the widow of the late Alexander R. Har-on, who was a private in Company F, Tenth Regiment of Minnesota olunteers. He was enlisted February 26, 1864, and was discharged ptember 5, 1865, for and on account of gunshot wounds received in ttle. He was allowed a full rate pension for the disability so in-rred, and continued to receive the same to the time of his death, ich occurred June 21, 1876.

The widow applied for a pension after the death of her said husband, d her application was rejected by the Commissioner of Pensions.

She then appealed to Congress for the passage of a special act grant-g her a pension. The House of Representatives passed a bill for that rpose March 28, 1884, which was communicated to the Senate, referred this committee, and reported back adversely, accompanied by the fol-wing report, viz:

The Committee on Pensions, to whom was referred the bill (H. R. 2325) granting ension to Helen M. Harrison, having duly considered the same, report adversely reon, for the reason that the disease of which the husband of Mrs. Harrison died s not contracted in the military service of the United States.

Mrs. Harrison applied for a widow's pension; the Commissioner of Pensions rejected r claim, and in his communication to the committee, transmitting the papers in the e, he says:

'The evidence shows that the soldier was pensioned for gunshot wounds of the left nd and left thigh, and that he died June 21, 1876, of typhoid fever. The claim has en rejected because the disease which caused the soldier's death was not contracted the military service."

This case will come within the rule embraced in the general bill reported by the nmittee, providing pensions for soldiers and the widows of soldiers, and if it should come a law, the claimant in this case will be entitled to the benefits of its provis-ns. The committee therefore have concluded that this case should await the judg-nt of Congress on the general bill, and report adversely to the passage of a special ; at this time.

This report was made to the Senate June 3, 1884, and was recom-tted to the committee June 26 for further consideration.

It will be observed that the adverse conclusion was based on the fact at the case was provided for in the general bill reported from the com-ttee providing pensions for soldiers and the widows of soldiers, and t for want of merit. As that bill has not become a law, nor is likely

to, at least during the present Congress, and as the soldier, whose widow now needs the aid of the pension, which was granted to him under the general law, even more than she did during his lifetime, served his country faithfully until disabled by wounds received in battle, and which, undoubtedly, by the effect they produced on his general health and strength of body, contributed to the fatal result of his last sickness, the committee reconsiders its former action, and now reports the bill to the Senate with a recommendation that it do pass.

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48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1282.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. WILSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 3403.]

*The Committee on Pensions, to which was referred the bill (H. R. 3403) for the relief of Jacob J. Morningstar, has examined the same, and reports :*

That this case is clearly within the provision of the act of March 3, 1883. That act provides amongst other things that—

All persons now on the pension-roll, and all persons hereafter granted a pension, who in like manner shall have lost either an arm, at or above the elbow, or a leg, at or above the knee, or shall have been otherwise so disabled as to be incapacitated for performing any manual labor, but not so much as to require regular personal aid and attendance, shall receive a pension of $30 a month.

The soldier in this case received an injury to one of his legs, which caused it to be amputated below the knee, and he is receiving a pension at the rate of $24 per month. He applied for an increase. The board of examining surgeons twice reported him disabled for performing any manual labor. This results from the loss of the leg complicated by the great size and weight of his person and other physical conditions, rendering it impossible for him to use an artificial limb, and wholly incapacitating him from manual labor, as reported by the board of medical examiners.

The committee is clearly of opinion that the evidence in the case brings the soldier within the provision of the law above quoted. The bill is accordingly reported with a recommendation that it do pass.

O

DOES NOT

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1283.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1885.—Ordered to be printed.

Mr. DAWES, from the Committee on Appropriations, submitted the following

# REPORT:

[To accompany bill H. R. 7970.]

*Indian appropriations*, 1886.

| | |
|---|---|
| Amount of estimates for 1886 | $7,328,049 64 |
| Amount of House bill | 5,685,175 80 |
| Increase made by the Senate committee (net) | 152,579 70 |
| Amount as reported to the Senate | 5,837,755 50 |
| Amount of appropriations for 1885 | 5,885,802 91 |
| The bill as reported is less than the estimates | 1,490,294 14 |
| The bill as reported is less than the appropriations for 1885 | 48,047 41 |

The changes made by the Senate committee in amounts of appropriation of the bill as passed the House of Representatives are as follows:

INCREASE.

| | |
|---|---|
| For care of Indians on Tongue River | $1,500 00 |
| For buildings at agencies and repairs of same | 10,000 00 |
| For Apaches, Kiowas, and Comanches, carpenter, farmer, &c | 700 00 |
| For Cheyennes and Arapahoes, purchase of clothing | 2,000 00 |
| For Columbias and Colvilles, as per treaty | 7,544 70 |
| For Pottawatomies, as per treaty (net) | 1,050 00 |
| For Sioux of different tribes, subsistence, &c. (net) | 47,000 00 |
| For expenses of examination of claims on account of Indian depredations | 10,000 00 |
| For food and other necessities of life for Indians in cases of emergency, in the discretion of the President | 25,000 00 |
| For incidental expenses of the Indian service in— | |
| Arizona | 2,000 00 |
| California | 2,000 00 |
| New Mexico | 2,500 00 |
| Washington | 1,000 00 |
| For practical farmers to aid Indians in agriculture | 10,000 00 |
| For Indian police | 12,000 00 |
| For telegraphing and purchase of Indian supplies | 5,000 00 |
| For aid to Seminole Indians in Florida in obtaining homesteads upon the public lands | 5,000 00 |
| For support of Indian day and industrial schools | 25,000 00 |
| For Indian industrial school at Arkansas City | 4,125 00 |
| For Indian industrial school at Carlisle | 5,000 00 |
| For support of Saint Ignatius Mission school, Montana | 12,500 00 |
| For Indian industrial school at Forest Grove | 10,000 00 |
| For support of Indian pupils at Hampton, Va | 3,960 00 |
| For Indian school buildings at Albuquerque | 10,000 00 |
| For the establishment of an Indian school in Colorado | 15,000 00 |
| *For transportation of* Indian pupils | 3,000 00 |
| *Total increase* | 232,879 70 |

REDUCTION.

| | |
|---|---|
| For pay of interpreters | $5,000 00 |
| For Creeks, assistance in agriculture | 2,000 00 |
| For Quapaws, assistant blacksmiths | 300 00 |
| For Arapahoes, Cheyennes, Apaches, &c., support | 15,000 00 |
| For Chippewas of Lake Superior, support | 2,000 00 |
| For Chippewas of Red Lake | 2,000 00 |
| For Chippewas on White Earth Reservation | 2,000 00 |
| For Indians of the late Central Superintendency | 18,000 00 |
| For Kansas Indians, support | 2,500 00 |
| For Tonkawa Indians, support | 1,500 00 |
| For establishment of Indian school at Santa Fé, N. Mex | 25,000 00 |
| For negotiations with the Creeks, Seminoles, and Cherokees | 5,000 00 |
| Total reduction | 80,300 00 |
| Net increase over House bill | 152,579 70 |

## INDIAN DEPARTMENT.

*Comparative statement showing the appropriations for* 1885, *the estimates for* 1886, *the amounts of House bill, and the amounts recommended by the Senate Committee on Appropriations for* 1886.

| Object. | Appropriations, 1885. | Estimates, 1886. | House bill, 1886. | Senate committee, 1886. |
|---|---|---|---|---|
| Indian agents | $89,800 00 | $106,500 00 | $89,800 00 | $89,800 00 |
| For care of Indians on Tongue River | | | | 1,500 00 |
| Interpreters | 25,000 00 | 30,000 00 | 25,000 00 | 20,000 00 |
| Indian inspectors, salaries | 15,000 00 | 15,000 00 | 15,000 00 | 15,000 00 |
| Indian inspectors, traveling expenses | 6,000 00 | 6,000 00 | 6,000 00 | 6,000 00 |
| Superintendent of Indian schools, salary | 3,000 00 | 4,000 00 | 3,000 00 | 3,000 00 |
| Superintendent of Indian schools, traveling expenses | 1,500 00 | 2,000 00 | 1,500 00 | 1,500 00 |
| Buildings at agencies and repairs | 35,000 00 | 50,000 00 | 25,000 00 | 35,000 00 |
| Contingencies of the Indian service | 40,000 00 | 50,000 00 | 40,000 00 | 40,000 00 |
| Expenses of Indian Commission | 3,000 00 | 5,000 00 | 3,000 00 | 3,000 00 |
| Total | 218,300 00 | 268,500 00 | 208,300 00 | 214,800 00 |
| *Fulfilling treaties.* | | | | |
| Apaches, Kiowas, and Comanches | 49,700 00 | 52,700 00 | 49,000 00 | 49,700 00 |
| Cheyennes and Arapahoes | 36,600 00 | 40,600 00 | 36,500 00 | 36,500 00 |
| Chickasaws | 3,000 00 | 3,000 00 | 3,000 00 | 3,000 00 |
| Chippewas, Boisé Fort band | 14,100 00 | 14,100 00 | 14,100 00 | 14,100 00 |
| Chippewas of the Mississippi | 25,000 00 | 5,000 00 | 5,000 00 | 5,000 00 |
| Chippewas, Pillagers, and Lake W. bands | 25,166 66 | 22,666 66 | 22,666 66 | 22,666 66 |
| Choctaws | 30,032 89 | 82,157 89 | 82,157 89 | 82,157 89 |
| Columbias and Colvilles | 85,000 00 | | | 7,544 70 |
| Creeks | 69,968 40 | 115,683 30 | 112,973 30 | 110,973 30 |
| Crows | 118,000 00 | 147,000 00 | 132,500 00 | 132,500 00 |
| Iowas | 2,875 00 | 2,875 00 | 2,875 00 | 2,875 00 |
| Kansas | 10,000 00 | 10,000 00 | 10,000 00 | 10,000 00 |
| Kickapoos | 13,209 45 | 12,493 24 | 9,493 24 | 9,493 24 |
| Klamaths and Modocs | 6,100 00 | 6,100 00 | 6,100 00 | 6,100 00 |
| Miamies of Kansas | 1,768 29 | 1,768 29 | 1,768 29 | 1,768 29 |
| Miamies of Eel River | 1,100 00 | 1,100 00 | 1,100 00 | 1,100 00 |
| Molels | 3,000 00 | 3,000 00 | 3,000 00 | 3,000 00 |
| Nez Percés | 3,500 00 | 3,500 00 | 3,500 00 | 3,500 00 |
| Northern Cheyennes and Arapahoes | 46,000 00 | 56,000 00 | 46,000 00 | 46,000 00 |
| Omahas | 10,000 00 | 10,000 00 | 10,000 00 | 10,000 00 |
| Osages | 3,456 00 | 3,456 00 | 3,456 00 | 3,456 00 |
| Otoes and Missourias | 5,000 00 | 5,000 00 | 5,000 00 | 5,000 00 |
| Pawnees | 47,300 00 | 50,000 00 | 47,300 00 | 47,300 00 |
| Poncas | 34,000 00 | 53,000 00 | 34,000 00 | 34,000 00 |
| Pottawatomies | 20,647 65 | 118,362 53 | 68,980 45 | 70,030 45 |
| Pottawatomies of Huron | 400 00 | 400 00 | 400 00 | 400 00 |
| Quapaws | 1,800 00 | 2,060 00 | 1,800 00 | 1,500 00 |
| Sacs and Foxes of the Mississippi | 51,000 00 | 51,000 00 | 51,000 00 | 51,000 00 |
| Sacs and Foxes of the Missouri | 8,070 00 | 8,070 00 | 8,070 00 | 8,070 00 |
| Seminoles | 28,500 00 | 28,500 00 | 28,500 00 | 28,500 00 |
| Senecas | 3,690 00 | 3,690 00 | 3,690 00 | 3,690 00 |
| Senecas of New York | 11,902 50 | 11,902 50 | 11,902 50 | 11,902 50 |

*Comparative statement showing the appropriations for* 1885, *&c.*—Continued.

| Object. | Appropriations, 1885. | Estimates, 1886. | House bill, 1886. | Senate committee, 1886. |
|---|---|---|---|---|
| ees | $5,000 00 | $5,000 00 | $5,000 00 | $5,000 00 |
| ees, Eastern | 1,030 00 | 1,030 00 | 1,030 00 | 1,030 00 |
| nes and Bannocks | 25,800 00 | 29,437 00 | 25,800 00 | 25,800 00 |
| tions of New York | 4,500 00 | 4,500 00 | 4,500 00 | 4,500 00 |
| of different tribes | 1,676,300 00 | 2,022,300 00 | 1,580,300 00 | 1,627,300 00 |
| Yankton tribe | 65,000 00 | 85,000 00 | 65,000 00 | 65,000 00 |
| Tabequache band | 720 00 | ..... | ..... | 63,740 00 |
| onfederated bands of | 63,020 00 | 73,740 00 | 63,740 00 | |
| lians | 4,000 00 | 4,000 00 | 4,000 00 | 4,000 00 |
| bagoes | 44,162 47 | 44,162 47 | 44,162 47 | 44,162 47 |
| up Reservation, survey of, &c | 3,000 00 | ..... | ..... | ..... |
| Total, fulfilling treaties | 2,662,419 31 | 3,194,354 88 | 2,609,365 80 | 2,665,360 50 |
| *Miscellaneous supports.* | | | | |
| ioes, Cheyennes, Apaches, Kiowas, &c. | 390,000 00 | 400,000 00 | 390,000 00 | 375,000 00 |
| rees, Gros Ventres, and Mandans | 40,000 00 | 50,000 00 | 40,000 00 | 40,000 00 |
| boines in Montana | 25,000 00 | 35,000 00 | 30,000 00 | 30,000 00 |
| eet, Bloods, and Piegans | 50,000 00 | 100,000 00 | 80,000 00 | 80,000 00 |
| was of Lake Superior | 12,000 00 | 20,000 00 | 12,000 00 | 10,000 00 |
| was of Red Lake and Pembina tribe | 12,000 00 | 18,000 00 | 12,000 00 | 10,000 00 |
| was on White Earth Reservation | 6,000 00 | 20,000 00 | 12,000 00 | 10,000 00 |
| was, Turtle Mountain band | 5,000 00 | 10,000 00 | 5,000 00 | 5,000 00 |
| erated tribes in Middle Oregon | 6,000 00 | 8,000 00 | 6,000 00 | 6,000 00 |
| nish and other tribes in Washington itory | 7,000 00 | 10,000 00 | 7,000 00 | 7,000 00 |
| ads and other confederated tribes | 11,000 00 | 13,000 00 | 11,000 00 | 11,000 00 |
| ads, Kootena, and Lower Pend d'Ore- | 16,000 00 | ..... | ..... | ..... |
| ads, Carlos's band | 21,000 00 | 21,000 00 | 18,000 00 | 18,000 00 |
| 'entres in Montana | 23,000 00 | 35,000 00 | 30,000 00 | 30,000 00 |
| e and other Indians in Arizona and Mexico | 280,000 00 | 300,000 00 | 270,000 00 | 270,000 00 |
| ns in Arizona | 20,000 00 | 20,000 00 | ..... | ..... |
| s of late central superintendency | 18,000 00 | 20,000 00 | 18,000 00 | ..... |
| s at Fort Peck Agency | 80,000 00 | 100,000 00 | 90,000 00 | 90,000 00 |
| s at Fort Hall Reservation | 18,000 00 | 20,000 00 | 17,000 00 | 17,000 00 |
| s at Lemhi Agency | 16,500 00 | 19,000 00 | 15,000 00 | 15,000 00 |
| Indians | 5,000 00 | 5,000 00 | 5,000 00 | 2,500 00 |
| ths and Modocs | 5,000 00 | 6,000 00 | 5,000 00 | 5,000 00 |
| s | 4,000 00 | 6,000 00 | 4,000 00 | 4,000 00 |
| ionee | 4,000 00 | 6,000 00 | 4,000 00 | 4,000 00 |
| s in the Indian Territory | 4,000 00 | 7,500 00 | 5,000 00 | 5,000 00 |
| ies | (*) | 40,000 00 | ..... | (†) |
| rcés in Indian Territory | 20,000 00 | 20,000 00 | 18,000 00 | 18,000 00 |
| rcés in Idaho | ..... | 20,000 00 | 7,500 00 | 7,500 00 |
| l-elts and Quil-leh-utes | 4,000 00 | 5,000 00 | 4,000 00 | 4,000 00 |
| me Indians in Wyoming | 12,000 00 | 20,000 00 | 12,000 00 | 12,000 00 |
| ne Indians in Nevada | 10,000 00 | 10,000 00 | 8,000 00 | 8,000 00 |
| of Lake Traverse | 8,000 00 | 10,000 00 | 8,000 00 | 8,000 00 |
| of Devil's Lake | 8,000 00 | 10,000 00 | 8,000 00 | 8,000 00 |
| ams | 4,000 00 | 5,000 00 | 4,000 00 | 4,000 00 |
| wa Indians in Texas | 10,000 00 | 10,000 00 | 5,000 00 | 3,500 00 |
| Walla, Cayuse, and Umatilla tribes | 7,000 00 | 8,000 00 | 6,500 00 | 6,500 00 |
| ias and other Indians | 15,000 00 | 20,000 00 | 15,000 00 | 15,000 00 |
| ply food and necessities of life in cases nergency | ..... | ..... | ..... | 25,000 00 |
| Total miscellaneous supports | 1,176,500 00 | 1,427,500 00 | 1,182,000 00 | 1,164,000 00 |
| *l incidental expenses of Indian service.* | | | | |
| zona | 25,000 00 | 30,000 00 | 20,000 00 | 22,000 00 |
| fornia | 29,000 00 | 30,000 00 | 26,000 00 | 28,000 00 |
| orado | 1,500 00 | 1,500 00 | 1,500 00 | 1,500 00 |
| kota | 8,000 00 | 9,600 00 | 8,000 00 | 8,000 00 |
| ho | 3,800 00 | 5,000 00 | 3,800 00 | 3,800 00 |
| ntana | 5,000 00 | 6,000 00 | 5,000 00 | 5,000 00 |
| vada | 23,000 00 | 31,500 00 | 22,000 00 | 22,000 00 |
| w Mexico | 5,000 00 | 15,000 00 | 5,000 00 | 7,500 00 |
| gon | 16,000 00 | 20,000 00 | 16,000 00 | 16,000 00 |
| h | 10,000 00 | 15,000 00 | 10,000 00 | 10,000 00 |
| shington | 14,000 00 | 20,000 00 | 15,000 00 | 16,000 00 |
| oming | 1,500 00 | 1,000 00 | 1,000 00 | 1,000 00 |
| Total general incidental expenses | 141,800 00 | 184,600 00 | 133,300 00 | 140,800 00 |

* sum of $40,000 for the Navajoes was appropriated for 1885, to be paid out of their funds in the l States Treasury.

† sum of $25,000 for the Navajoes for 1886 is recommended by the Senate committee to be paid their funds in the United States Treasury.

*Comparative statement showing the appropriations for* 1885, *&c.*—Continued.

| Object. | Appropriations, 1885. | Estimates, 1886. | House bill, 1886. | Senate committee, 1886. |
|---|---|---|---|---|
| *Miscellaneous.* | | | | |
| For the employment of practical farmers to aid Indians in farming | $25,000 00 | $50,000 00 | $25,000 00 | $35,000 00 |
| Pay of Indian police | 72,000 00 | 115,000 00 | 75,000 00 | 87,000 00 |
| Vaccination of Indians | 1,000 00 | 1,000 00 | 1,000 00 | 1,000 00 |
| Telegraphing, and purchase of Indian supplies | 40,000 00 | 40,000 00 | 35,000 00 | 40,000 00 |
| Transportation of Indian supplies | 275,000 00 | 300,000 00 | 275,000 00 | 275,000 00 |
| Purchase of stock cattle or sheep for Indian tribes | ..... | 50,000 00 | ..... | ..... |
| Survey of Indian reservations | 50,000 00 | 50,000 00 | ..... | ..... |
| Prevention of liquor traffic on Indian reservations | 5,000 00 | 5,000 00 | ..... | ..... |
| Irrigating ditches on Indian reservations | 50,000 00 | 50,000 00 | ..... | ..... |
| Constructing bridges on Santee Sioux Indian Reservation, &c | 12,000 00 | ..... | ..... | ..... |
| Constructing bridges on Omaha and Winnebago Reservations | ..... | 1,200 00 | ..... | ..... |
| Reimbursement of Ute removal fund | 31,913 60 | ..... | ..... | ..... |
| For examination of coal deposits of White Mountain Indian Reservation in Montana | 2,500 00 | ..... | ..... | ..... |
| To aid the Seminoles of Florida to obtain homesteads | 6,000 00 | ..... | ..... | 5,000 00 |
| To aid Indians in making homestead proofs at land offices | 1,000 00 | 5,000 00 | 5,000 00 | 5,000 00 |
| Removal of White Oak Point and Mille Lac bands of Chippewa Indians to White Earth Reservation | ..... | 25,000 00 | ..... | ..... |
| Removal of Spokane Indians to Colville Reservation | ..... | 6,000 00 | ..... | ..... |
| To open negotiations with Creeks, Seminoles, and Cherokees in respect to homestead settlements, &c | ..... | ..... | 5,000 00 | ..... |
| For the expenses of examination of Indian depredation claims | ..... | ..... | ..... | 10,000 00 |
| Total miscellaneous | 571,413 60 | 698,200 00 | 421,609 00 | 458,000 00 |
| *Indian schools.* | | | | |
| Indian day and industrial schools, &c | 510,000 00 | 890,949 76 | 510,000 00 | 535,000 00 |
| Construction and repair of school buildings | 40,000 00 | | 40,000 00 | 40,000 00 |
| Purchase of cattle and sheep for schools | 25,000 00 | | 25,000 00 | 25,000 00 |
| Industrial schools in Alaska | 15,000 00 | 25,000 00 | 20,000 00 | 20,000 00 |
| Industrial school near Arkansas City | 33,000 00 | 36,125 00 | 30,000 00 | 34,125 00 |
| Industrial school at Carlisle, Pa | 76,000 00 | 101,000 00 | 76,000 00 | 81,000 00 |
| Industrial school at Forest Grove, Oreg | 56,500 00 | 46,500 00 | 41,500 00 | 51,500 00 |
| Industrial school at Genoa, Nebr | 28,000 00 | 31,750 00 | 29,750 00 | 29,750 00 |
| Industrial school at Hampton, Va | 21,500 00 | 26,250 00 | 20,040 00 | 24,000 00 |
| Industrial school at Lawrence, Kans | 60,800 00 | 68,250 00 | 66,250 00 | 66,250 00 |
| For support, &c., of 200 Indian children at Lincoln Institution, Philadelphia | 33,400 00 | 33,400 00 | 33,400 00 | 33,400 00 |
| For support of Indian children at other schools in the States | 70,000 00 | 113,000 00 | 83,500 00 | 83,500 00 |
| Transportation of Indian children | 20,000 00 | | 25,000 00 | 28,000 00 |
| For support of Indian school at Albuquerque, N. Mex | ..... | 35,000 00 | ..... | 10,000 00 |
| For establishment of Indian industrial school at Sante Fé, N. Mex | ..... | ..... | 25,000 00 | ..... |
| For support of 100 Indian pupils at the Saint Ignatius Mission School, Montana | ..... | ..... | 10,000 00 | 22,500 00 |
| To erect school buildings for the Ute Indians in Colorado | ..... | ..... | ..... | *15,000 00 |
| For establishment of a training school among the eastern band of Cherokees in North Carolina | 4,000 00 | ..... | ..... | ..... |
| For education of children of school age in Alaska | †25,000 00 | 50,000 00 | ..... | ..... |
| For expenses of commission to report upon the condition of Indians in Alaska | †2,000 00 | 2,000 00 | ..... | ..... |
| Total for Indian schools | 1,020,200 00 | 1,459,724 76 | 1,035,440 00 | 1,098,025 00 |
| Interest in trust-fund stocks | 95,170 00 | 95,170 00 | 95,170 00 | 95,170 00 |
| Total for the Indian service | 5,885,802 91 | 7,328,049 64 | 5,685,175 80 | 5,837,758 50 |

* In addition to this amount, the sum of $8,000 heretofore appropriated is made available for the same purpose.

† This sum was appropriated in the act providing for a civil government for Alaska.

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1284.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 17, 1885.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

# REPORT:

[To accompany bill H. R. 1132.]

*The Committee on Military Affairs, to whom was referred the bill (H. R. 1132) to place J. Washington Banks on the muster-rolls of Company B, Second North Carolina Mounted Infantry, respectfully submit the following report:*

H. R. 5316 was introduced at the first session Forty-seventh Congress, having the same object in view as the bill now before the committee. That bill was referred to the Committee on Military Affairs of the House, and was reported with amendments June 12, 1882. As amended by the committee, it is in words the same as the present bill.

The passage of the bill was recommended as amended by the committee. (See House Report 1408, first session Forty-seventh Congress, to accompany H. R. 5316.)

That bill was never finally acted on. At the first session Forty-eighth Congress the present bill (H. R. 1132) was introduced, referred to the Committee on Military Affairs of the House, and on the 18th March, 1884, submitted to the Committee of the Whole, with House Report No. 821 thereon, and passed the House May 17, 1884.

The report (821) of the House embodies the facts, and is hereby adopted, as follows:

The testimony in this case shows that the soldier was duly enlisted by Capt. George M. Kirk, Company B, Second North Carolina Mounted Infantry, the 25th September, 1863, to serve three years or during the war, at Greeneville, Tenn., he having passed through the Confederate lines for that purpose. He was furloughed for three weeks to visit his home, and on his return to the command was captured by the Confederates at Warm Springs, N. C., where he was to have been regularly mustered into the United States service. The soldier was taken to Belle Isle, at Richmond, Va., and kept as a prisoner of war till Richmond was occupied by the Union forces. He was kept until the surrender at Appomattox, and then allowed to go home. His papers were made out, which were lost, and he never received either pay or bounty.

In the opinion of the committee the bill ought to pass, wherefore they report said bill (H. R. 1132) without amendment, and recommend that it do pass.

ɔTH CONGRESS, 2d Session. | SENATE. | REPORT No. 1285.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 17, 1885.—Ordered to be printed.

ɪr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 5508.]

*ɪe Committee on Pensions, to whom was referred the bill (H. R. 5508) granting a pension to Isaac R. H. Caldwell, have examined the same, and report as follows:*

The material facts of this case are correctly set forth in the report of e House Committee on Pensions. Said report and its conclusion are lopted, as follows:

*ɪe Committee on Invalid Pensions, to whom was referred the bill (H. R. 5508) granting a pension to Isaac R. H. Caldwell, late captain of Company G, Thirteenth Kentucky Volɪnteers, beg leave to make the following report:*

The evidence in this case shows conclusively that the claimant was taken sick with asles while in camp at Campbellsville, Taylor County, Kentucky, and before he l been mustered into the service of the United States; that while convalescing he s so mustered, and ordered with his regiment to Green River Bridge, and, in conuence of cold, wet weather, took a relapse, resulting in pneumonia; that said dis- of measles (resulting, as aforesaid, in pneumonia) terminated in a debilitated con- on of the system generally, with diseased condition of the lungs; also, a catarrhal ction of the head, and that claimant was never in good health afterward. The hos- l records show that claimant was treated in regimental hospital at Campbellsville, in November, 1861; Green River Bridge, Ky., December, 1861; Battle Creek, n., in the summer of 1862, and at various other times and places, by the regi- tal surgeon, when not confined in hospital; and that in consequence of the dis- lity incurred, as above stated, he was discharged and mustered out of service rch 15, 1864.

The evidence is conclusive that Captain Caldwell was a sound and well man when went into camp, and that his disease was contracted while in the service and in line of duty, although he was not mustered at the time of his first illness; but s was through no fault or negligence on his part, as he was in camp with his comny, ready and willing to be mustered, and had actually been engaged with the emy. The Government accepted his services for more than two years, and should estopped now from setting up the fact that the claimant was not a well man at e date of his muster.

The Commissioner of Pensions, in a letter under date of January 12, 1883, informg claimant of the rejection of his case by the Pension Office, says:

"Your case is properly one for special action by Congress, and will be recomnded to that body by this office for that purpose.

"W. W. DUDLEY."

The evidence is conclusive that the disability has been continuous since discharge. Your committee are clearly of the opinion that this is a worthy case, and recomnd the passage of the accompanying bill.

O

48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1286.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 17, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill S. 2202.]

*The Committee on Pensions, to whom was referred the bill (S. 2202) granting a pension to Alice Warfield, have examined the same, and report as follows:*

That the said Alice Warfield on the 16th May, 1884, filed her application for pension as the widow of Elijah T. Warfield, late a private in Company H, Seventy-third Indiana Volunteers, alleging that her said husband had died of disease contracted in the service of the United States. In transmitting the papers in the case to the committee the Commissioner of Pensions reports that the claim is still pending in the Pension Office, having recently been filed, and that when the papers are returned to his office a call for the evidence required to complete the same will be forwarded to the applicant or her attorney.

Your committee have invariably refused to recommend relief in cases thus situated; to do so would transfer to Congress a majority of the pending cases. We recommend the indefinite postponement of the bill.

O

48TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1287.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 17, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4825.]

*The Committee on Pensions, to whom was referred the bill (H. R. 4825) for the relief of Rosina Heineman, have examined the same, and report as follows:*

That the said Rosina Heineman filed her application for pension as dependent mother of Wilhelm Heineman, late a private in Company E, Second New York Mounted Rifles. The claim was rejected because the claimant was unable to furnish proof of the soldier's death. There was no record of his death, nor other evidence to establish the fact that the soldier is dead. While the claim stands rejected upon said grounds, the Pension Office has signified its willingness to open the case and proceed with its investigation whenever claimant can or will produce evidence of the soldier's death. In rejecting the claim for above reasons the Pension Office did not go into or determine the question of alleged dependence. In the papers before your committee there is no evidence, except claimant's own statement, of her dependence upon the soldier. The action of the Commissioner in rejecting the claim because there was no evidence of soldier's death was clearly correct. That fact is not shown in the papers before your committee. If it should be presumed from his continued absence, still there is nothing to warrant the further presumption that he died from injuries or disabilities contracted in the service. We cannot assume all of these essential facts.

The committee recommend the indefinite postponement of the bill by the Senate.

O

H CONGRESS, } SENATE. { REPORT
d Session. } { No. 1288.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 17, 1885.—Ordered to be printed.

JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[ To accompany bill H. R. 5172. ]

*Committee on Pensions, to whom was referred the bill (H. R. 5172) ranting a pension to Mary L Wells, have examined the same, and re- ort as follows:*

t appears from the papers in this case that George W. Wells, late ate of Company I, First Tennessee Volunteers, in 1870 made appli- ion for pension, alleging disability from disease contracted in the ice. The claim was rejected in 1871 because there was no record or er evidence of alleged disability in the service or at date of discharge, because the medical evidence of the examiner showed there was no ting disability. The soldier thereafter died on the 5th October, 5. In April, 1876, his widow, the said Mary L. Wells, filed her ap- ation for pension, alleging that her said husband had died of disease tracted in the service. It appears from the voluminous proof taken upport of the widow's claim that the soldier died of bilious-intermit- t fever. He stated to the physician who attended him in his last sick- s that he had been down South driving a team and selling lightning s and got full of malaria, and that he had fallen from his wagon and hurt head. The effort is made to show that his fatal disease was jaundice tracted in the service, but the proof fails to establish this theory, o show that the disease of which he died was contracted in or due is military service, and for this reason the widow's claim was re- ed. The case received a thorough examination in the Pension Of- . After its first rejection it was reopened and a special agent was t to the locality of the claimant in East Tennessee with instructions nvestigate the case fully and ascertain what, if any, connection the band's fatal sickness had with his military service, but no such con- tion could be traced and the office adhered to its rejection. The ers have been gone through carefully, and your committee can find satisfactory evidence to establish the material fact that the soldier l of disease originating in the service.

he committee accordingly report back the bill to the Senate with the ommendation that it be indefinitely postponed.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1289.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 17, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

# REPORT:

[To accompany bill H. R. 6834.]

*The Committee on Pensions, to whom was referred the bill (H. R. 6834) granting an increase of pension to Charles D. Hunkle, have examined the same, and report as follows:*

That the said Charles D. Hunkle, late a private and corporal in Company G, One hundred and forty-third Regiment Pennsylvania Volunteers, in January, 1878, filed his application for pension, alleging disability from gunshot wound in right arm and of little finger of right hand. He was pensioned first at $3 per month from date of discharge. This rating was subsequently increased upon surgeon's certificate to $6 per month from January 5, 1880. He afterwards made several applications for increase, which were rejected in 1881, 1882, and 1883, because no increase of disability was shown, and because the several boards of examining surgeons which examined him during each of these years reported that he was properly rated at $6 per month and was entitled to no increase. The claimant's case was again re-opened for examination in 1884, with directions to the board of examining surgeons to examine him with great care and rate his disability. This examination was made in February, 1884, which also rated his disability at three-quarters total, or $6 per month. This board further reported that "we seldom see a man whose general appearance indicates better health than this claimant, and rarely one who has as fine a development of the muscles. We find no ground upon which to recommend an increased rating." This appears to have been the last examination by a board of surgeons. The wounds for which the claimant has been pensioned and for which the increase is asked were very slight. The one in the arm was in the fleshy part of the upper arm; the other was at the second joint of the little finger of right hand, which has crooked the finger, but is attended with little or no disability. The medical referee of the Pension Office says the claimant's application "for increase is without any shadow of merit." The committee, upon an examination of the papers before them, concur fully in this statement, and are clearly of the opinion that the application for increase was properly rejected. We think the bill is without merit and should not be passed, and accordingly recommend its indefinite postponement by the Senate.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1290.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 17, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4282.]

*The Committee on Pensions, to whom was referred the bill (H. R. 4282) granting a pension to Richard G. Sharp, have examined the same, and report as follows:*

That the said Richard G. Sharp, late private in Company C, First Tennessee Light Artillery, filed his application for pension September 20, 1867, alleging as the basis of his claim that while at home on furlough, about November 1, 1864, the enemy came upon him, and while trying to escape from them he was shot in the right hand, involving the loss of the little finger. In a subsequent declaration, filed November 24, 1875, he alleges that while on detail in Claiborne County, Tennessee, he was shot in the right hand and had to have the little finger amputated. In still another affidavit he says the wound was received while he was after deserters. After investigation in the Pension Office the claim was rejected because the record of the War Department failed to show existence of the alleged disability in the service, and the claimant was unable to show that the same was incurred in the line of duty. No witness testifies to having been present when the wound was inflicted. The case as presented rests upon the statements of the claimant himself, and as to the circumstances under which the wound was received he has made different and conflicting statements in his several declarations and affidavits. Which should be accepted we cannot say. The claimant has been informed that when competent evidence was produced that wound was received in line of duty the case would be reopened for consideration. His remedy, therefore, if the proper evidence can be had, is still open in the Pension Office. Congress should not grant special relief and thus reverse the action of the Department upon the statements of claimants.

The committee recommend the indefinite postponement of the bill by the Senate.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1291.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 17, 1885.—Ordered to be printed.

Mr. JACKSON, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5176.]

*The Committee on Pensions, to whom was referred the bill (H. R. 5176) for the relief of James I. Dail, have examined the same, and report as follows:*

That the said James I. Dail, late first lieutenant and quartermaster of the Second Tennessee Cavalry, filed his application for pension in April, 1871, alleging as the basis of his claim that at McMinnville, Tenn., in May, 1863, while going up a mountain on a raid after Morgan, his horse's feet slipped and gave him a severe jolt, causing *fistula in ano.* It appears, from the records of the Adjutant-General's Office, that this soldier, in March, 1864, tendered his resignation on the ground that he was not able for military service because of a running ulcer upon his left thigh. The surgeon's certificate upon which his resignation was accepted states that said Dail, having applied for a certificate upon which to ground a plea for resignation—

> I certify that I have carefully examined this officer, and find him unfit for military duty, because of disability caused by troublesome and obstinate abscess on the left thigh, and finally a carbuncle that threatens to permanently disable him.

It is not claimed that the disabilities have continued since his discharge. As to the disability claimed as the ground of pension, *fistula in ano*, there is no record of its existence in the service, nor at date of discharge, and no satisfactory parol evidence was furnished by the applicant to establish either its origin in the service or at discharge, or its continuance since. For this reason the claim was rejected by the Pension Office. Again the board of examining surgeons who examined the claimant in 1880, reported that—

> There is no *fistula in ano.* There is some flabby excrescences round the anus, the result of piles having bursted and left ragged edges. No evidence of carbuncle or effects. No disability.

This examination was made by a board at Knoxville, Tenn. The claimant was again examined in Knoxville in 1881, when the board again certified that there was no *fistula in ano.* In the House report it is suggested that the ulcer of the left thigh and carbuncle on the leg, which existed at date of discharge, may have caused the *fistula in ano*, but there is nothing in the papers before your committee to warrant or support this theory. It is shown that the alleged disability does not exist at present. The claim was properly rejected by the Pension Office, and this rejection should be adhered to. We accordingly recommend the indefinite postponement of the bill by the Senate.

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48TH CONGRESS, 2d Session. | SENATE. | REPORT No. 1292.

# IN THE SENATE OF THE UNITED STATES.

FEBRUARY 17, 1885.—Ordered to be printed.

Mr. CAMDEN, from the Committee on Pensions, submitted the following

## REPORT:

[To accompany bill S. 1703.]

*The Committee on Pensions, to whom was referred the bill (S. 1703) granting a pension to Robert Lisle, have carefully examined the same and the papers therewith submitted, and respectfully report:*

The claimant enlisted in Company H, Thirty-eighth Ohio Volunteers, on September 1, 1861, and was discharged January 13, 1862, by reason of disease of his eyes. The surgeon's "certificate of disability for discharge," dated January 13, 1862, states that—

> The soldier is incapable of performing the duties of a soldier because of chronic iritis which disqualifies him for the duties of a soldier, but does not disable him for some kinds of labor. He had the same disease anterior to his enlistment.

The claim was rejected by the Commissioner of Pensions on the ground that—

> The alleged disability existed prior to his enlistment, as shown by the record evidence in the War Department, and also by the testimeny adduced by a special examiner. It appears that the soldier is totally blind, but inasmuch as it does not appear that he rendered any considerable term of service, but was discharged within a few months upon medical recommendations, as he was unfitted for the duties of a soldier by disease of the eyes prior to enlistment, it is considered that the alleged disability was not caused by his military service nor affected thereby.

The papers in the case are voluminous, and the evidence is somewhat conflicting, but the following points may be taken as clearly established: First, that the soldier was only in the service about four months, from September to January; second, that he had disease of the eyes prior to his enlistment, which was increased during the term of his service by contracting a cold, but that the cold was contracted while absent from his command on leave, and was not contracted in the line of duty; third, it also appears that the soldier became totally blind about the year 1877. Your committee consider that the evidence clearly justifies the conclusion arrived at by the surgeon's certificate for discharge, and also by the Commissioner of Pensions in rejecting the claim for pension, and that the claimant is not entitled to the relief asked for in the bill, and therefore recommend its indefinite postponement.

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